



# ICS Examiners Report

## Marine Insurance 2011

### **Overall Comments**

Some of the answers presented were too general with no case laws being used in the discussions (similar to *Shipping Law*), and failed to demonstrate a clear understanding of the topic of law taken up for discussion. Questions 5 and 6 were the most popular ones, with almost all candidates attempting to answer both, while the least popular one was Question 8, followed by Question 7.

### **Question One**

The second most popular question (along with question 3). Candidates who failed to answer this question did not demonstrate a clear understanding of the law. Here, the candidates were expected to be familiar with the general principles of insurable interest in marine insurance. They were to carry out a detailed discussion on “insurable interest” and the legal right to insure. Candidates were also expected to be familiar with the relevant provisions of the Marine Insurance Act 1906 relating to insurable interest and the application of the principles. Those who fared above average had presented a good answer, using case laws in their discussions to demonstrate a good understanding of the law. The performance of the candidates on this question could be summarised as being above average.

### **Question Two**

The third most popular question. Here, the candidates were expected to be familiar with sue & labour in marine insurance contracts. The candidates were expected to carry out a detailed discussion on sue & labour under marine insurance contracts and it differs from the expenses incurred as general average claim. It was also required to demonstrate a clear understanding of sue & labour and how it differs from the expenses incurred under a general average claim. The performance of the candidates on this question could be summarised as being satisfactory.

### **Question Three**

The second most popular question in this exam (along with question 1). The candidates were expected to be familiar with the role played by the P&I clubs in the shipping industry. The answer was to include a detailed discussion about the purpose and function of the Shipowner’s P&I clubs in the shipping industry, and the candidates were also to discuss how the P&I clubs benefit the Shipowner (club letters etc.). The performance of the candidates on this question could be summarised as being very satisfactory.

#### **Question Four**

The 4<sup>th</sup> most popular question in this examination . Here, the candidates were expected to be familiar with warranties under a marine insurance contract. The candidates were expected to carry out a detailed discussion on warranties under a marine insurance contract, and how it is a “condition precedent” and “promissory” in nature. They were also expected to discuss the consequences of breach of warranty. The performance of the candidates on this question could be summarised as being very satisfactory.

#### **Question Five**

The most popular question (along with question 6). The candidates were expected to be familiar with the doctrine of subrogation and the duty of utmost good faith under a marine insurance contract. They were to carry out a detailed discussion on the legal principles behind **a)** the doctrine of subrogation, the rights of the subrogated insurer, and **b)** the duty of utmost good faith under a marine insurance contract. The performance of the candidates on this question could be summarised as being satisfactory.

#### **Question Six**

The most popular question (along with question 5). The candidates were expected to be familiar with the doctrine of “proximate cause” under a marine insurance contract. The candidates were to carry out a detailed discussion on the doctrine of “proximate cause” in determining claims arising under a marine insurance policy. They were also expected to discuss the common law principles of “proximate cause” while determining the actual cause of the loss arising under a marine insurance policy. The overall performance of the candidates could be summarised as being satisfactory.

#### **Question Seven**

The second least popular question. The candidates were expected to be familiar with legal liabilities that may devolve upon a Shipowner from a collision incident. They were to carry out a detailed discussion on the legal liabilities that may devolve upon a Shipowner from a collision incident where the policy is subject to Institute Time Clauses – Hulls 1/11/95, and explain/discuss to what extent some/or any of these liabilities are recoverable under the policy. The overall performance of the candidates could be summarised as being disappointing.

#### **Question Eight**

Although a topical issue, the question on piracy was least popular. The candidates were expected to be familiar with the high incidents of piracy and other crimes carried out on the high seas where cargo ships have been high jacked for ransom. The candidates were to carry out a detailed discussion on “piracy” and if it is covered under the definition of “peril of the sea” under the MI Act 1906. The discussion was also to focus on how one could possibly counter the perceived threat by taking appropriate cover/policy for the marine adventure. The overall performance of the candidates could be summarised as being poor and disappointing.