

SHIPPING LAW – Syllabus

SHIP OWNERSHIP and ADMIRALTY JURISDICTION

MORTGAGE LAW APPLICABLE TO SHIPS

Understand that, unlike other aspects of ship-owning, mortgages are still covered under English law in many jurisdictions.

Be aware of the main legal issues arising under English mortgage law, namely the difference between a legal mortgage and an equitable mortgage, and understand the consequential difference between registered and unregistered mortgages.

Admiralty Jurisdiction

Thoroughly understand the rights of those courts dealing with shipping matters to entertain a claim against a ship or other maritime property.

Understand the procedure to arrest *in rem*.

Understand the application of the Brussels Arrest Convention 1952 including the types of liens. Be aware of the international conventions of maritime liens and mortgages, namely the International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages 1926, 1967 & 1993.

Understand the use of freezing orders previously known as Mareva Injunctions.

LEGAL ASPECTS OF CHARTER PARTIES

Thoroughly understand the basic anatomy of any charter party.

Thoroughly understand the operation of the cancelling date.

Thoroughly understand the concept of the safe port.

Understand the importance of descriptive warranties and the consequences of breaches, including the difference between those that cause the contract to be terminated and those that result only in financial compensation.

Understand the circumstances under which deviation may be justified and those circumstances where deviation would constitute a breach.

Understand the purpose and content of war risk and similar clauses.

Understand the circumstances that result in the frustration of a contract.

Voyage Charters

Understand how and when freight is calculated and earned, and the importance of timely payment in accordance with the contract.

Be aware of the way in which deadfreight is incurred and calculated.

Thoroughly understand the importance of Notice of Readiness.

Thoroughly understand how laytime is calculated and the manner in which demurrage, despatch or damages for detention may arise.

Time Charters

Understand the requirements for delivery and re-delivery of the vessel.

Thoroughly understand the importance of timely payment of hire. Understand the remedies available to the owner in the event of non-payments and the possible adverse consequences for the shipowner and cargo owners.

Understand the circumstances under which a time charter vessel may be placed off-hire.

Understand the importance of vessels' performance – speed and consumption – and common disputes that arise.

Understand the respective responsibilities of the owner and time charterer for the cargo.

Bareboat charters – (newbuilding and secondhand).

Understand the main areas in which bareboat charters are used, the types of contracts involved and the principal reasons for disputes.

Be aware of the use of bareboat or lease charters in ship financing.

Be aware of the ship ownership and registry implications.

LEGAL ASPECTS OF BILLS OF LADING

Thoroughly understand the role and function of bills of lading and relationship between bills of lading and the mate's receipt or equivalent document.

Thoroughly understand the application of law to the negotiability of title to cargo carried under bills of lading or other documents subject to the Carriage of Goods by Sea Act 1924, (England) or the equivalent bill of lading legislation in other jurisdictions.

Understand the role of charter party bills of lading and the legal significance of bills of lading issued by charterers and the implications for shipowners.

Understand the fundamental aspects common in all bills of lading.

Understand how carriers' liability varies between port-to-port bills of lading, through combined transport bills of lading and liner waybills.

Thoroughly understand the importance of clauses covering identity of carrier, law and jurisdiction and protection of servants and subcontractors (Himalaya Clause)

Be aware of the function of protection clauses including Paramount, New Jason and Both-to-Blame.

CONVENTIONS ON CARRIAGE OF GOODS BY SEA

Thoroughly understand the importance of international cargo liability conventions, Hague, Hague-Visby and Hamburg Rules.

Understand the conflicts between rules and the reasons for the differences.

Be aware of their apparent shortcomings and the current arguments in favour of revision.

Understand the relationship of cargo liability conventions with insurance.

Understand the distinction between common and private carriers and their respective liabilities.

Understand the areas of dispute and litigations arising from the interpretation of the rules including, seaworthiness, excluded perils and errors in navigation.

Understand the manner and quantum of liability.

GENERAL AVERAGE, SALVAGE AND TOWAGE

Thoroughly understand the concept of general average.

Understand the international conventions of general average as embodied in the York-Antwerp Rules 1994.

Understand the manner in which the rules determine what sacrifices qualify for a declaration of general average.

Be aware of the role of the average adjuster and the manner in which contributions are collected and distributed.

Thoroughly understand how the right to salvage arises and the nature of a salvage agreement.

Understand the Lloyd's Open Form of Salvage Agreement (LOF) 2000.

Understand the manner in which salvage arbitration and litigation determines the amount to be paid to the salvors.

Be aware of the effect of international pollution conventions on salvage awards.

Be aware of the application of the International Convention of Salvage 1989.

Understand that, unlike salvage, towages are performed under the ordinary law of contract.

Be aware of the main customary terms in towage contracts including the responsibility of the towed vessel.

COLLISION

Thoroughly understand the International Conventions governing collisions at sea namely the International Regulations for Prevention of Collisions at Sea 1972.

Understand the application of the Both-to-Blame collision clauses and the areas of conflict this can create.

Be aware of the manner of apportionment of fault and measure of damages.

POLLUTION AND THE ENVIRONMENT

Thoroughly understand the international conventions concerned with pollution:

- International Convention on Civil Liability for Oil Pollution Damage 1969 (CLC) and the 1992 Protocols.
- International Convention on the Establishment of an International Fund for Oil Pollution Damage 1971 (the 'Fund' Convention).
- International Convention for the Prevention of Pollution from Ships 1973 (MARPOL 1973 and its 1978 Protocol).

Be aware of the (now defunct) TOVALOP (Tanker Owners' Voluntary Agreement concerning Liability for Oil Pollution Damage) and CRISTAL (Contract regarding an Interim Supplement to Tanker Liability for Oil Pollution Damage).

Be aware of the consultancy role now played by ITOPF (The International Tanker Owners Pollution Federation).

Understand the particular impact of the US Oil Prevention Act (OPA 90).

Understand the application of international and national law to the disposal of sewage, refuse and garbage afloat and ashore.

SHIPOWNERS' LIMITATION OF LIABILITY AND PASSENGERS

SHIPOWNERS' LIMITATIONS OF LIABILITY

Thoroughly understand the international conventions governing limitations of liability, namely the General Limitation Convention for Maritime Claims 1957 and 1976.

Understand who is entitled to limit liability and under what circumstances.

Understand the methods of calculation and distribution of the fund.

Understand the circumstances under which limitations may be broken.

PASSENGERS

Understand the application of the relevant international conventions, namely the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea 1974.

Thoroughly understand how the contract of carriage is evidenced and the rights and responsibilities of parties under common law and statute.

Be aware of the limitation of liability for loss of life, personal injury and property claims.

DISPUTE RESOLUTION

Thoroughly understand the use of suitable wording of clauses enabling the determination of the method of resolution to be employed and the jurisdiction.

Thoroughly understand the concept of time barring of claims and litigation, both statutory and contractual.

Understand the procedures followed in litigation, arbitration and other methods of dispute resolution – the main differences and the advantages and disadvantages of each.

Be aware of the main locations for arbitration and the significant differences between their procedures.

Understand the acts and rules governing arbitration.

Be aware of the main terms of the English Arbitration Act 1996.

Be aware of the use of LMMA terms in UK arbitration and SMAA in US arbitration.

Understand the structure of the English court system and its rules.

Thoroughly understand how the quantum of damages is assessed, both under contract and *tort*.

Be aware of the application of awards of costs and how these may vary between jurisdictions.

Note: *This syllabus is based on international conventions and English law except where otherwise stated. Candidates will be expected to be able to refer to leading common law cases in their examination answers.*
