



ICS Examiner's Report

Marine Insurance 2012

Overall Comments

A total of 42 scripts were received for marking, of which, there were no scores of 70% or above. Some of the answers presented were too general and not demonstrating a clear understanding of the law taken up for discussion. This could be down to the fact that some students were not taking full advantage of the TutorShip system. Questions 4 and 6 were the most popular ones, with 36 students answering question 4 and 34 students answering question 6.

Question One

Question on subrogation: This question was the third most popular question, with 28 students attempting to answer. Students who failed to pass did not demonstrate a clear understanding of the law. Here, the candidates were expected to be familiar with the doctrine of subrogation in marine insurance contracts. They were to carry out a detailed discussion on the doctrine of subrogation in insurance contracts which is covered under the MI Act 1906. The discussion was to focus on the importance of the doctrine to the insurers, and how it worked through the substitution of the insurer to the rights of the insured as a normal incident of indemnity. 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 good.

Question Two

Question relating to - a) insurable interest, and b) disclosure and representation: The 4th most popular question with 26 students attempting to answer. Here, the candidates were expected to be familiar with the general principles of a) insurable interest and b) disclosure and representation in marine insurance. The candidates were to carry out a detailed discussion on a) insurable interest and the legal right to insure, and b) disclosure and representation. Students were expected to be aware of the relevant provisions of the MI Act 1906 relating to insurable interest, disclosure & representation, and the application of these principles. The performance of the candidates on this question could be summarised as being good.

Question Three

Question on breach of warranties: This was the 2nd least popular question with 16 candidates attempting the same. The candidates were expected to produce a detailed discussion on warranties under a marine insurance contract, and how it was a condition precedent and promissory in nature. Students were also expected to discuss the consequences of breach of warranty. The performance of the candidates on this question could be summarised as being good.

Question Four

Question on P&I clubs: A total of 36 candidates attempted the question – the most popular one. Here, the candidates were expected to be familiar with the role played by the P&I clubs in the shipping industry. They were to carry out a detailed discussion on the purpose and function of the shipowners' P&I clubs in the shipping industry. Students were also to discuss how P&I clubs benefit the shipowner (club letters etc.). Those candidates who recorded a 60% or over had used relevant case laws in the discussion, and have also clearly identified and analysed the legal issues. The performance of the candidates on this question could be summarised as being good.

Question Five

Question on duty of utmost good faith (*uberrimae fidei*): The third most popular question with a total of 27 candidates attempting to answer. The candidates were expected to be familiar with the duty of utmost good faith (*uberrimae fidei*) under a marine insurance contract. They were also to carry out a detailed discussion on the legal principles behind the duty of utmost good faith (*uberrimae fidei*) in a marine insurance contract, its uniqueness to insurance contracts, and how it affects the performance of the contract. The performance of the candidates on this question could be summarised as being good.

Question Six

Question on the doctrine of 'proximate cause': This question was attempted by a total of 25 candidates. 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. Students were expected to discuss the common law / tort 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 good.

Question Seven

Question on general average and sue & labour: With 34 candidates attempting to answer the question, it was the second most popular question. The candidates were expected to be familiar with general average and sue & labour in marine insurance contracts. The candidates were to carry out a detailed discussion on general average and sue & labour under marine insurance contracts and how sue & labour differed from the expenses incurred as general average claim. Students were to demonstrate a clear understanding of both general average and sue & labour. Those students who fared above average had presented a good answer, using relevant case laws in their discussions and demonstrating a good understanding of the law. The overall performance of the candidates could be summarised as being good.

Question Eight

Question on legal liabilities arising from misrepresentation and non-disclosure in insurance contracts: With only 8 candidates attempting the question, it was the least popular question. The candidates were expected to be familiar with the legal liabilities that may devolve upon a shipowner from misrepresentation / non-disclosure of material facts while entering into a marine insurance contract. The candidates were to carry out a detailed discussion on the legal liabilities that may devolve upon a shipowner for non-disclosure and/or mis-representation of material facts relating to the subject matter of an insurance policy, when processing a claim based on the insurance policy. Those who fared above average had demonstrated a clear understanding of the position of law, using case laws in their discussions. The overall performance of the candidates could be summarised as being good.