

## LL4008BV/LL5008BV/LL6008BV/LC5204BV/LCD5204BV Charterparties

This course follows on from **Carriage of Goods by Sea** which is offered in Semester I, a pre-requisite for this course. The earlier course was mainly concerned with the legal relationship between the shipper (or seller of the goods), the carrier (the shipowner), and the receiver/consignee of the goods. In this course, **Charterparties**, our concern is the contractual arrangements which are made when a seller or buyer of goods needs the entire carrying capacity of a ship and charters a ship (or part of a ship) from the shipowner under a charterparty.

Most charterparties of ships are fixed where and when particular cargoes become available. Depending on market conditions, the costs of chartering can fluctuate significantly and this can also have an impact on the type of charterparty which is negotiated. The course therefore begins with an overview of the main charterparty types (time, voyage, bareboat, slot, and their variants) and the nature of the market. We examine also certain unique aspects of charterparty formation (fixtures) and there is an overview of the range of available standard forms.

We then turn to a detailed study of time charterparties, which may be entered into for a short or long term, and are contracts for services in which ownership remains vested in the shipowner but with the commercial operation of the ship vested in the time charterer. We take as our specimen study forms NYPE 1946 and NYPE 93 (and, once it is available, the new NYPE form), Baltime, and the Shelltime 4 form. We initially consider some of the core terms found in these forms, such as the description and condition of the vessel, cargo capacity, the provision of bunkers (fuel), the shipowners' contractual obligation to deliver (and the charterers' right to cancel). We next consider provisions in the charterparty specifying the period of hire, including issues relating to early redelivery (underlap) or late redelivery (overlap), which have attracted a great deal of judicial attention in the past decade. For hire, off-hire, deductions from hire, right to withdraw the vessel on non-payment of hire, the employment and agency clause (including express and implied indemnities and the NYPE Inter-club Agreement), contractual liens, and the redelivery of the vessel.

Voyage charterparties, on the other hand, are typically for single voyage (or may be for a series of consecutive voyages) and in which the charterer typically must load to the full cargo carrying capacity of the ship. We take as our specimen study forms the Gencon 1994 form and the Asbatankvoy form. We consider the voyage to the port (or place) of loading, which is ordinarily at the risk of the shipowner. He has the obligation of ensuring that the ship reaches the agreed loading port or range on time. Once the ship approaches the loading port, the risk of any delay or congestion typically passes to the charterer who has paid for the loading (and discharging time at the end of the voyage) in the voyage charter freight he has transferred to the owner. The allowed time for loading and discharging is known as laytime and if this is exceeded the charterer is liable to pay the owner liquidated damages in the form of demurrage. The topics of laytime and demurrage are the distinguishing feature of voyage charterparties and can be of immense technical complexity. Our course provides an overview of the salient principles. The final part of this section of the course deals with discharge of the cargo, after which the ship is returned to the shipowner for her next trade.

Freight is the consideration paid to the shipowner for the use of the ship under a voyage charterparty and, coincidentally, the consideration payable from the shipper to the carrier under the terms of a bill of lading. We shall consider the various types of freight (e.g. advance freight, lumpsum freight, deadfreight) as well as the effect of phrases such as "freight payable per charterparty" and "freight prepaid". In this section, we shall also consider liens for freight and sub-freight.

The final two seminars are concerned with two topics of general contractual importance, often occurring in the charterparty context. The first is frustration, where we shall remind ourselves of the main principles, and how these work out in the charterparty context. The second is remedies, where we remind ourselves of the main principles, including damages and other alternative remedies.

The course requires a willingness to engage with standard form contracts and a not insignificant body of case law.

After successfully completing this course you should be able to:

1. *Demonstrate an understanding* of the main charterparties, including time charterparties, voyage charterparties, slot charterparties, bareboat charterparties, and also the various hybrid types in common usage.
2. *Describe and explain* the main elements of time charterparties and the principal legal difficulties which may be encountered by time charterers and owners.
3. *Describe and explain* the main elements of voyage charterparties, including laytime and demurrage.
4. *Be familiar with* the different types of freight and the remedies open to the shipowner in the event of non-payment.

5. *Have an awareness and understanding* of the main principles of the law of frustration which are applicable to charterparties.
6. *Demonstrate an understanding* of the main remedies available to shipowners and charterers in the event of breach.

The expected topics are:

**SEMINAR 1:** INTRODUCTION TO CHARTERPARTIES: VOYAGE; TIME; SLOT; BAREBOAT; HYBRIDS

**SEMINAR 2:** TIME CHARTERPARTIES (1): DESCRIPTION OF THE VESSEL; DELIVERY; PERIOD OF HIRE; REDELIVERY

**SEMINAR 3:** TIME CHARTERPARTIES (2): PAYMENT OF HIRE; OFF-HIRE; DEDUCTIONS FROM HIRE; WITHDRAWAL FOR NON-PAYMENT OF HIRE

**SEMINAR 4:** TIME CHARTERPARTIES (3): UTMOST DESPATCH; EMPLOYMENT AND AGENCY; LIABILITY FOR LOSS OR DAMAGE TO CARGO

**SEMINAR 5:** TIME CHARTERPARTIES (4): THE INTER-CLUB AGREEMENT; LIENS AND CESSER CLAUSES

**SEMINAR 6:** VOYAGE CHARTERPARTIES (1): FORMATION; OVERVIEW; STANDARD FORMS; VOYAGE CHARTER VARIANTS; THE PRELIMINARY VOYAGE; "REASONABLE DESPATCH"; THE LOADING OPERATION

**SEMINAR 7:** VOYAGE CHARTERPARTIES (2): COMMENCEMENT OF LAYTIME; THE ARRIVED SHIP; NOTICES OF READINESS; CALCULATION OF LAYTIME; SUSPENSION OF LAYTIME

**SEMINAR 8:** VOYAGE CHARTERPARTIES (3): DEMURRAGE; DAMAGES FOR DETENTION; DESPATCH MONEY; THE CARRYING VOYAGE; DISCHARGE

**SEMINAR 9:** FREIGHT – CALCULATION; DEDUCTIONS; ADVANCE FREIGHT; LUMP SUM FREIGHT; BACK FREIGHT; PAYMENT OF FREIGHT

**SEMINAR 10:** FRUSTRATION: ESSENTIAL FEATURES; TYPES OF FRUSTRATION; EFFECT OF FRUSTRATION; LAW REFORM (FRUSTRATED CONTRACTS) ACT 1943

**SEMINAR 11:** REMEDIES: DEBT; DAMAGES; ALTERNATIVE REMEDIES FOR BREACH OF CHARTERPARTY; MISREPRESENTATION; EQUITABLE REMEDIES

**SEMINAR 12:** TUTORIAL