

LL4099AV/LL5099AV/LLD5099AV/LL6099AV Maritime Law

This course is concerned with providing an overview and understanding of the legal issues which arise following incidents which occur on ships (or between ships) when at sea or approaching port.

We start with the coming into existence of the ship and the factors which determine the decision to own and trade a ship. We will look at factors which might determine the choice to “flag” the ship with a particular flag registry, the various ownership structures which might be selected, and the business of ship sale and purchase, both for second-hand tonnage and newbuilds. Having secured registration and left port, we consider the legal consequences which follow after a collision between two ships (or between a ship and another object). This involves the application of principles of tort law, overlaid with the Collision Regulations, the primary international rules regulating the navigation of ships at sea.

One of the major effects of a collision is oil pollution, whether from crude oil (from oil tankers) or bunker oil (from any ship). This rose to public prominence following the grounding of the *Torrey Canyon* in 1967 and the later stranding of the *Amoco Cadiz* in 1978, both of which saw oil pollution on a large scale. This met with a concerted international response, now found in a series of interlocking international conventions, imposing liability (the CLC 1992 and the Bunkers Convention) and providing additional compensation to the victims of pollution damage in cases where compensation under the CLC was either inadequate or unobtainable (the Fund Convention 1992 and the Supplementary Fund 2003) or not covered (the Bunkers Convention). We shall consider the private law impact of all these responses.

We then move logically to the law of salvage (and also, briefly, wreck). Salvage law is an ancient body of law which gives financial compensation for the services proffered by professional salvors who have preserved or contributed to the preservation at sea of any vessel, cargo, freight, or other recognised subject of salvage, from danger. Modern salvage law agreements are typically embodied in a well-known contract, Lloyd’s Open Form (LOF 2011), and this together with the Salvage Convention 1989, forms an integral part of our enquiry.

The law of general average (GA) is an ancient concept by which the parties in a sea venture proportionally share any losses resulting from a voluntary sacrifice of part of the ship or cargo to save the whole in an emergency. Today embodied in the York-Antwerp Rules, GA is closely associated with marine insurance because insurance policies on hull, cargo, and freight all provide that insurers will pay the contribution due from the assured but is often considered in the context of maritime casualties.

Following a collision, rescue from danger (earning salvage) may not be required; an injured ship may be towed, pursuant to a towage contract and at a fixed remuneration, to a nearby port. We shall look at the UK Standard Conditions (which typically apply to towage in ports and harbours, but are also occasionally for offshore work and which, despite the name, are widely used outside the UK) and the Towcon and Towhire contracts (typically for ocean towage work).

Ships calling at or near ports are frequently subject to compulsory pilotage. This requirement to take on board a pilot, usually a master mariner with particular experience and knowledge of particular passages at sea or approaches to harbours, is of ancient origin, and is required in Singapore and in most ports worldwide.

The final part of the course is concerned with a matter of considerable practical importance, limitation of liability. Our focus will be the international scheme for capping the exposure of shipowners (and others) following a maritime incident. This has been regulated by international conventions since 1924; our main concern will be the Convention of 1976 and its 1996 Protocol (the LLMC), though we shall also consider some of the essential elements of the earlier 1957 scheme, which still applies in some parts of the world.

After successfully completing this course you should be able to:

1. *Demonstrate an understanding* of the essential factors underpinning the ownership of ships and the formal mechanisms and contracts which underpin the acquisition of second-hand ships and newbuilds.
2. *Have an understanding* of the main provisions of the Collision Regulations and be able to analyse the relevant rules for apportioning liability.
3. *Develop an awareness and understanding* of the scope of the various oil pollution liability and compensation conventions.
4. *Have an understanding* of the main principles of the modern law of salvage, towage, and pilotage.
5. *Develop an awareness and understanding* of the working principles of general average and the York-Antwerp Rules.
6. *Demonstrate an understanding* of the law relating to limitation of liability.

The expected topics are:

SEMINAR 1: OWNERSHIP OF SHIPS (1): NATIONALITY AND REGISTRATION OF SHIPS.

SEMINAR 2: OWNERSHIP OF SHIPS (2): SHIP SALE AND PURCHASE.

SEMINAR 3: MARINE COLLISIONS (1): LIABILITY IN TORT; NEGLIGENCE IN MANAGEMENT; DEFENCES; NEGLIGENCE IN NAVIGATION; BURDEN OF PROOF; COLLISION REGULATIONS.

SEMINAR 4: MARINE COLLISIONS (2): COLLISION REGULATIONS CONTD.; FAULT AND DAMAGES; INVESTIGATIONS.

SEMINAR 5: OIL POLLUTION: THE CLC 1992, THE FUND CONVENTION 1992, FUND PROTOCOL 2003; BUNKERS CONVENTION 2001.

SEMINAR 6: SALVAGE (1): NATURE OF SALVAGE; DISTINCTIVE FEATURES; SALVAGE CONVENTIONS; DOMESTIC LAW; SALVABLE PROPERTY; COMMENCEMENT OF SALVAGE SERVICES; SALVAGE AWARDS; FAULT OR MISCONDUCT BY SALVORS; LIABILITY TO PAY SALVAGE; APPORTIONMENT OF SALVAGE.

SEMINAR 7: SALVAGE (2): ELEMENT OF DANGER; SALVAGE SERVICES; SALVAGE AND "SUCCESS"; CHARACTERISTICS OF THE SALVOR; SALVAGE CONTRACTS: LOF; SCOPIC AND ENVIRONMENTAL SALVAGE; THE FUTURE OF SALVAGE?; LIFE SALVAGE; SALVAGE AND WRECK; SALVAGE AND THE UNDERWATER HERITAGE.

SEMINAR 8: GENERAL AVERAGE (1): MEANING AND UNDERLYING BASIS; SOURCES; THE YORK-ANTWERP RULES; TERMINOLOGY; OVERLAPS AND RELATIONSHIPS.

SEMINAR 9: GENERAL AVERAGE (2): PRE-CONDITIONS FOR GENERAL AVERAGE; ELEMENTS OF GENERAL AVERAGE; QUALIFYING LOSSES; EXCEPTIONS TO LIABILITY TO CONTRIBUTE; EFFECTS OF A GENERAL AVERAGE ACT; ADJUSTMENT.

SEMINAR 10: TOWAGE: ORIGINS; TYPES; TOWAGE CONTRACTS; IMPLIED OBLIGATIONS OF TUG AND TOW; OBLIGATIONS OF THE TOW; COLLISIONS INVOLVING TUG AND TOW; TOWAGE AND SALVAGE; STANDARD CONDITIONS FOR TOWAGE; TOWCON / TOWHIRE.

SEMINAR 11: PILOTAGE: TYPES; COMPULSORY PILOTAGE; PILOTAGE REGULATIONS; PILOTAGE COMMITTEE; PENALTIES AND CHARGES.

SEMINAR 12: LIMITATION OF LIABILITY: BACKGROUND AND JUSTIFICATION; THE 1957 THE 1976 CONVENTION; 1996 PROTOCOL.