



ASSOCIATION OF
Average Adjusters

Fellowship Level Examinations

Module F3: Collisions / Recoveries / Freight / Miscellaneous (3 hours)

(3 hours)

Syllabus, Law Cases and Bibliography (Applicable to examination sessions held from March 2022 onwards)

SYLLABUS - GENERAL

The purpose of this Module is to test candidates extensively on their knowledge of collision settlements and the insurance claims arising therefrom, as well as the treatment of recoveries, both collision-related and in general. In addition, candidates should be prepared to answer questions relating to the insurance of freight.

The various miscellaneous subjects allocated to this Module are listed below, together with references to commentaries in the latest edition of Arnould, which Candidates should study.

Generally, candidates are expected to have a detailed knowledge of relevant insurance clauses for these subjects along with a theoretical and practical knowledge of the subjects. They will be required to answer a number of practical problems, some of which will be detailed figured questions, as well as demonstrate knowledge of the relevant case law. In particular, Candidates are expected to be familiar with and be able to explain the listed topics in detail.

The majority of the paper (approximately 60%) will be weighted towards questions on Collisions, with approximately 30% relating to Recoveries and Freight, and the remaining 10% to the miscellaneous topics (labelled I, J and K) which have been allocated to this Module.

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COLLISIONS

Areas of Study - Collisions

- Extent of the cover provided by clause 8 of Institute Time Clauses Hulls 1/10/83 including:
 - Definition of vessel
 - Definition of damages
 - Definition of collision
 - Exclusions
 - Settlement on a single and cross liabilities basis
 - Limit of insurers' indemnity
- Measure of damages.
- Limitation of liability:
 - Relevant conventions and legislation
 - How the fund is calculated
 - Life claimants
 - Breaking limitation
- Calculation of financial settlements where:
 - Both ships are to blame
 - Settlement between the vessels is on a lump sum basis
 - Settlement is on a drop-hands basis
 - One vessel is to blame
 - One vessel limits liability
- State collision claims on:
 - Hull policies
 - P & I cover
 - Freight policy
 - Excess liabilities policies
- Effect of deletion of three fourths collision clause for hull and machinery policy.
- Apportion recoveries to the parties involved including cargo interests in GA.
- Division of costs including application of ROP A8, and interest.
- Collision settlements in multiple currencies.
- Claims covered by a P & I club.
- Collision claims on hull sistership clauses.
- Both to blame collision clause.
- Collision Liability provisions of the American Institute Hull Clauses.

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Case law - Collisions

1. **Acanthus, The [1902]**
2. Achlibster, The [1920]
3. American VRM Transport Co v United States of America [USA, 1976]
4. Argentino, The [1888]
5. Arpad, The [1934]
6. Baltic Surveyor, The [2001] and [2002]
7. **Bennett Steamship Co v Hull Mutual Protecting Society [1914]**
8. Bernina, The (No.3) [1866]
9. **Black Prince, The [1862]**
10. **Bramley Moore, The [1963]**
11. **Carslogie, The**
12. **Chekiang, The [1926]**
13. City of Buenos Ayres, The [1871]
14. **De Vaux v Salvador [1835]**
15. **Despina R, The [1979]**
16. Drumlanrig, The [1911]
17. Egyptian, The [1864]
18. **Esso Belgium, The [USA 1952]**
19. European and Australian Royal Mail v P&O [1866]
20. **Ferdinand Retzlaff, The [1972]**
21. Flying Fish, The [1865]
22. **France, Fenwick & Co v Merchants Marine Insurance Co Ltd [1914]**
23. Fritz Thyssen, The [1967]
24. **Furness Withy & Co Ltd v Duder [1936]**
25. **Gas Float Whitton No.2 [1897]**
26. **Hall Brothers Steamship Company v Young [1939]**
27. **Harlow, The [1922]**
28. Harmonides, The [1903]
29. **Haversham Grange, The [1905]**
30. Hebe, The [1847]
31. HMS London [1914]
32. Inflexible, The [1857]
33. Kate, The [1899]

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34. Khedive, The [1882]

35. Kingsway, The [1918]

36. Lady Gwendolen, The [1965]

37. Leigh & Sullivan Ltd. v. the "Aliakmon" [1986]

38. Liesbosch Dredger v. Eddison SS. (owners) [1933]

39. London Corporation The [1935]

40. Lu Shan, The [1993]

41. Mack, The [1882]

42. Marine Craft Contracts v Erland Blomqvist [1953]

43. Marion, The [1982]

44. Marpessa, The [1891]

45. McCowan v Baine [1891]

46. Mediana, The [1900]

47. Merchants Marine Insurance Co Ltd v North of England [1926]

48. Milingos, The v. George Franks (Textiles) Ltd. [1976]

49. Minihaha, The [1921]

50. Moliere, The [1924]

51. MSC Panther, The and The Eric Bank [1957]

52. Mudlark, The [1911]

53. Naxos, The [1972]

54. NV Bureau Weissmuller v Tojo Maru [1971]

55. Owners of Cargo in Greystoke Castle v Owners of Cheldale [1947]

56. Pacific Concord, The [1960]

57. Pactolus, The [1856]

58. Parana, The [1876]

59. Pelton Steamship Co v North of England [1925]

60. Polpen Shipping Company Ltd v Commercial Union Assurance Company Ltd [1943]

61. Racine, The [1906]

62. Royal Fusilier, The [1926]

63. Sivand, The [1998]

64. Soya, The [1955]

65. Steadman v Schofield [1992]

66. Trecarrell, The [1973]

67. Treleigh, The [1908]

68. Wagon Mound, The (No.1) [1961]

69. World Harmony, The [1967]

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70. Yorkshireman, The [1826]

Reading Materials - Collisions

- Maritime Conventions Act 1911.
- Merchant Shipping Act 1995 s.33 (definitions) (incorporation of various conventions defining "ship" including 1976 Convention of Limitation of Liability) and s.187.
- Rule of Practice A8 of the Association of Average Adjusters.
- Goodacre, Marine Insurance Claims, 3rd edition.
- Hurd, The Law and Practice of Marine Insurance relating to Collision Damages and other Liabilities to Third Parties (long out of print but still the best practical exposition on cross liability collision claims).
- Marsden, Collisions at Sea.

RECOVERIES

Areas of Study - Recoveries

- Statutory provision of s.79 of Marine Insurance Act, 1906.
- Deductible provisions affecting recoveries in Institute Time Clauses, International Hull Clauses and American Institute Hull Clauses.
- Provisions for recoveries in Loss of Charter Hire Insurance (ABS 1/10/83 Wording).
- Apportionment of recoveries for general and particular average including interest.
- Credit to insurers for cargo sacrifice in GA.
- Use and operation of hold harmless clauses.
- Concept of "top down" recoveries and how they work.

Case law - Recoveries

1. **Attorney General v Glen Line Ltd [1930]**
2. **Burnand v Rodocanachi [1882]**
3. **Boag v Standard Marine Insurance Co Ltd [1937]**
4. **Commonwealth, The [1907]**
5. **Edwards & Co Ltd v Motor Union Insurance Co Ltd [1922]**
6. **Goole & Hull Steam Towing Co Ltd v Ocean Marine Insurance Co Ltd [1928]**
7. **H Cousins & Co Ltd v D&C Carriers Ltd [1970]**
8. **Kuwait Airways Corp v Kuwait Ins Co SAK [1996]**

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9. Meyer Corporation of Boston v France Fenwick & Co. Ltd. [1923]
- 10. Napier v Hunt [1993]**
- 11. National Oilwell (UK) Ltd v Davy Offshore Ltd [2003]**
12. North British and Mercantile Ins. Co v London, Liverpool and Globe Ins Co [1877]
- 13. North of England Iron SS Insurance Association v Armstrong [1870]**
- 14. Oceanic Steam Navigation Co v Evans [1934]**
- 15. Sea Insurance Co v Hadden [1884]**
- 16. Simpson v Thompson [1877]**
- 17. Young v Merchant Marine Insurance Co Ltd [1932]**
- 18. Yorkshire Insurance v Nisbet [1961]**

Reading materials - Recoveries

- Arnould's Law of Marine Insurance and Average (latest edition).

FREIGHT

Areas of Study - Freight

- Coverage under Institute Voyage Clauses and Institute Time Clauses Freight including:
 - perils covered
 - measure of indemnity provisions
 - franchise
 - loss of time clause
 - claim for total loss
 - general average
 - collision
- Claims for:
 - loss of advanced freight
 - freight earned when vessel is CTL
 - freight and contributions to general average.
 - claim on freight policies should voyage be abandoned.

Case law - Freight

- 1. Atlantic v Gibbon [1954]**
- 2. Forbes v Aspinall [1811]**

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3. **Hough v Head [1885]**
4. Inman SS Co v Bischoff [1882]
5. **Jackson v Union Marine Insurance Company [1974]**
6. **Kulukundis & Others v Norwich Union Fire Insurance Society Ltd [1936]**
7. Naviera de Canarias v Nacional Hispánica Aseguradora [1977]
8. Papadimitriou v Henderson [1939]
9. **Petros M Nomikos v Robertson [1939]**
10. **Trinder Anderson v Thames and Mersey Marine [1898]**
11. **Yero Carras [Owners] v London & Scottish Assurance Corporation Ltd [1936]**

Reading materials - Freight

- Arnould's Law of Marine Insurance and Average (latest edition).

MISCELLANEOUS TOPICS – F3

- I. **Role of Broker:** The role of the insurance broker, the required standard of conduct, whom they act for, and their responsibility for premium: **Arnould (19th edition) S. 7-06, M.I.A. 1906 – S.53**
- J. **AAA Rules of Practice:**
 - A1 - adjustments for the consideration of Underwriters
 - A3 - agency commission and agency
 - B 24 - contributory value of ship
- K. **The Duty of Fair Presentation**, as specified in the Insurance Act 2015, Section 3, (1) to (5).

Case law relevant to the Miscellaneous Topics for this Module

- I. **Role of Broker:**
 - **Bates v Barrow Ltd [1995]**
 - **BP Plc v Aon Ltd.(No.2) [2006]**

(For topics J and K, there is no requirement to refer to case law)

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Approximate allocation of marks for this Module:

F3		%
	Collisions	65
	Recoveries	15
	Freight	10
	Misc.	10
		<u>100</u>