

Admiralty Jurisdiction and Savage, Towage, Pilotage and Collision

**Elective
Past
Papers**

LL.B. IV



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Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GhSL Online Law Journal*.

Moreover, GhSL boasts its own Thesis Library, located at the GhSL office in the Faculty of Laws. Additionally, GhSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at resources@ghsl.org.



Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

3. Organisational Skills

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

4. Taking your own class notes

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

5. Participation

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

6. Practice is the key to success

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.



FOURTH & FIFTH YEAR LAW
ELECTIVE UNITS PAST PAPERS

ADMIRALTY JURISDICTION



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UNIVERSITY OF MALTA
FACULTY OF LAW
JANUARY 1997-1998 TESTS
LL.D. II Year

Admiralty Jurisdiction

29th January 1998

3.15pm - 4.15pm

Answer ONE of the following questions:

1. To what extent, if at all, is Maltese legislation on admiralty jurisdiction attractive for persons desiring to proceed *in rem* before the Maltese courts. Do you feel, moreover, that there is scope for reform? If so, in what respects?
2. X, an Italian citizen and member of the crew of a Liberian registered ship which had been chartered bareboat to a Swiss company, has not been paid his wages by his employers for the past few months. Advise X as to what legal proceedings, if any he can commence in Malta, to safeguard his rights. Would the existence or otherwise of a clause in his contract of employment referring all disputes to arbitration in Bermuda, effect your advice?
3. Examine the notion of 'arrest', of a ship under the Maltese law, the procedure leading to 'arrest' and the existent methods for revoking such 'arrest'. What reform would you suggest in this area of the law? Moreover, should the 'arrest' of a 'sister-ship' be part of this reform?

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.D. - II YEAR

Special Session

Admiralty Jurisdiction

27th April, 1998

Answer one question.

1. Examine the juridical basis and justification to the action in rem. Is its applicability or otherwise under Maltese law, justified in the case of claims arising when a ship is chartered bareboat to third parties ?
 2. Examine the areas of Maltese Law relating to Admiralty Jurisdiction which you feel give rise to problems of interpretation. Moreover, what reform would you suggest in the regulation of Admiralty Jurisdiction in Malta ?
 3. An Italian ship company which operates a ship repair yard in Genoa has obtained the issue from the Maltese courts of a precautionary warrant of impediment of departure and seizure against a Greek ship present in Malta, for works carried out on the ship in Genoa, at the order of the master of the vessel engaged by the bareboat charterers, which works remained unpaid. Advise the owners of the ship on the legality or otherwise of the issue of such warrants, what action can be taken by the owners for their revocation, and whether a possible reference to an arbitration clause referring all disputes to arbitration in Switzerland could be of any benefit in revoking such warrants.
-

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.D. I YR/LL.D. II YR 1999/2000
JANUARY 2000 TESTS
ADMIRALTY JURISDICTION

CREDIT CODE: CM018

CREDIT VALUE: 1

DATE: 24th JANUARY 2000

TIME: 1.00P.M. – 2.00P.M.

ANSWER ONE QUESTION

1. Examine the requisites for the exercise of the action in rem before a Maltese court. To what extent, if at all, do you feel they are appropriate in catering for today's needs, and what reform, if at all, would you recommend?
2. Company A is an American insurance company which has over the past years issued policies covering the MV Goodfaith, a ship registered in Cyprus, at the request of the ship's Swiss owners, for which policies to date it has not been paid. Company B is an Italian ship repair yard, which effected various repairs, including the supply of vital engine parts to the ship, at the request of its master, for which Company B has as yet not been paid because the owners of the ship are contending that the works were not properly executed. The agreement entered into between Company B and the ship owners, prior to the execution of the works, provide that in the event of any dispute arising therefrom, the dispute is to be referred to arbitration in England. MV Goodfaith is currently in Malta effecting further repairs. Advise Company A and Company B as to whether an action in rem and a warrant of arrest can be filed against the ship.
- 3a. Discuss the application or otherwise of an action in rem against a ship, in respect of necessaries supplied to it at the request of its master, when chartered bare-boat, which charter has today expired;
- 3b. What are the means existent under Maltese law for arresting a vessel. Do you feel these means are adequate and do you consider them to be a pre-requisite for the exercise of an action in rem under Maltese law?

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I & II YEAR (2001/02)
JANUARY TEST

WEDNESDAY, 23/01/02

3.30 – 4.30 P.M.

ADMIRALTY JURISDICTION

ANSWER ONE(1) QUESTION ONLY

1. The 'Good Faith' is a Liberian registered vessel chartered bareboat to a French Company. Whilst berthed in Italy, the master of the vessel ordered various repairs to be effected to the ship's engines in order to enable it to proceed on its voyage. The ship left Italy without full payment for the repairs being effected. The master of the vessel contended that the repairs were not properly effected. A French insurance company is moreover claiming it had issued insurance coverage over the vessel at the request of the charterer, but was never paid for the insurance premium. The ship is now in Malta. Advise the Italian ship repairers and the French Insurance Company as to whether they have any remedy against the vessel in Malta, and if so what is the procedure for the exercise of such remedy. Can such a remedy be exercised in relation to another ship also present in Malta and owned by the same person? Moreover, advise the Italian ship repairer whether in the event of an action being brought against the ship, it is possible for a counter claim for damages to be brought against the ship repairers.

2. Maltese Law on admiralty jurisdiction is archaic, confusing and full of grey areas. It is moreover in need of reform if it is to keep in touch with modern international legal development in this area and if it is to provide an effective remedy at Law. Discuss the veracity or otherwise of this statement.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I AND II (2003/4)

JANUARY 2004 SESSION

ADMIRALTY JURISDICTION

MONDAY, 19TH JANUARY 2004

8.00 – 9.00 A.M.

ANSWER ONE OF THE FOLLOWING

1. Examine and discuss the developments to the action in rem in the light of recent Court judgments, with particular reference to the Court of Appeal's judgment, in 'Sammy Meilaq nomine vs. Oral Attinell nomine', delivered on the 5th of October 2001 (MV Yukon case) and the First Hall Civil Court judgement in 'Dr Kevin Dingli nomine vs. Kap Sebastiano Pizzimeti nomine' delivered on the 11th July 2001 (MV Poker case). Have these cases, in your opinion, effected the theoretical and juridical basis to the action in rem?
2. To what extent, if at all, do you consider Admiralty proceedings in Malta to be a useful tool for a creditor that has rendered a service in favour of a ship, to enforce his rights. Do you consider Maltese Law, in this regard, to be clear and to have kept in touch with foreign developments on the action in rem. Discuss.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I AND II YEAR (2003/4)
MAY/JUNE 2004 SESSION OF TESTS

STUDY-UNIT: ADMIRALTY JURISDICTION (RESIT/FIRST-SIT)

DATE: WEDNESDAY, 26TH MAY 2004

TIME: 2.15 – 3.15

Answer one of the following questions:-

1. The ship M.V. Spirit of the Seas was chartered bareboat by a French ship-owning company to an Italian company Film Industria S.p.A., to be used in a film to be shot in Malta. Film Industria S.p.A. representatives engaged the services of Borg Ship Repair Limited to look after the ship, whilst filming was carried out in Malta. During such time, Borg Ship Repair Limited engaged the services of a watchman to look after the ship and provided electrical power supply for the ship. When the film shooting came to an end, the invoices issued by Borg Ship Repair Limited amounted to forty thousand Maltese Lira (LM40,000), and were not yet paid. Moreover, it resulted that not even the French ship-owning company was paid for its charter fees. Advise [1] Borg Ship Repair Limited, and [2] the French ship-owning company, as to what remedy they can exercise to secure their rights and pretensions. Advise, moreover, Borg Ship Repair Limited, if they could be faced with a counter-claim, since at one stage, vandals broke into the ship whilst it was in their yard and caused thousands of Maltese Lira in damages.

Or

2. Examine the development of the action in rem, through case-law. Do you feel that Maltese Courts have been liberal in their approach. Moreover, do you feel that they adhere to the procedural or to the personification theory in their application of the action in rem.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I AND II YEAR (2005/6)

JANUARY 2006 SESSION OF TESTS

STUDY-UNIT: ADMIRALTY JURISDICTION
DATE: TUESDAY, 24TH JANUARY 2006
TIME: 3.30-4.30P.M.

ANSWER ONE (1) QUESTION ONLY

Question 1

What are the requisites for filing an action *in rem*?

OR

Question 2

List the various heads of claims in respect of which an action *in rem* can be filed.
What is a claim "for necessaries" supplied to a ship?

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I AND II YEAR (2005/6)

MAY/JUNE 2006 SESSION OF TESTS

STUDY-UNIT: ADMIRALTY JURISDICTION (RESIT/FIRST-SIT)

DATE: WEDNESDAY, 31ST MAY 2006

TIME: 2.15-3.15P.M.

ANSWER ONE QUESTION ONLY

1. "Hu ghalhekk car u accettat li, fl-Ingilterra, b'lex persuna tagixxi kontra bastiment permezz ta' azzjoni *in rem* irid jkollu jew dritt personali kontra s-sid jew dritt fuq il-bastiment". Kevin Dingli noe vs. Kaptan Pizzimenti noe, decided by First Hall Civil Court per Judge David Scicluna 11.07.01 (M.V. Poker case).

Discuss the extent to which the above statement reflects the local position, when proceeding *in rem* in respect of claims that arose whilst the ship is chartered bareboat.

OR

2. "Claims for necessities supplied" is one of the more popular causes for proceeding *in rem*. Examine the interpretation that our courts have given to such claims, particularly in the light of recent judgments, in particular that delivered in the case GM International Services Limited vs. M/Y Ilderim IV, decided by the First Hall Civil Court per Judge Tonio Mallia 05.05.05. Do you believe that our courts have adopted a rigid or flexible interpretation?

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I AND II YEAR (2007/8)
CML5022 - ADMIRALTY JURISDICTION

THURSDAY, 24TH JANUARY 2008

9.15 - 10.15 a.m.

STUDENTS ARE TO CHOOSE ONE OF THE FOLLOWING QUESTIONS :

1. Examine the requisites to bring an action in rem in the light of recent amendments to our law.

OR

2. M.V. Joker was chartered bareboat to an Italian company. In the course of the charter the M.V. Joker underwent a number of repairs at the yard of an English company. The English company was never paid for said repairs, and the M.V. Joker is now in Malta undergoing major repairs at a Maltese shipyard. Advise the English company whether it can initiate proceedings in rem in Malta against the M.V. Joker.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I AND LLD II YEAR (2009/0)
JANUARY 2010 EXAMINATIONS

EXAMINATION: CML5022 – ADMIRALTY JURISDICTION
DATE: Tuesday, 2nd February 2010
TIME: 9.15 am – 10.15 am

Answer ONE question only.

- 1 To what extent, if at all, have the requisites for the action in rem changed as a result of Act XIV of 2006?

OR

- 2 Examine the implications of the various judgements relevant to the M.V. Poker, in the light of Article 742D of Chapter 12 of the Laws of Malta.

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LLD I AND LLD II YEAR (2009/0)

SEPTEMBER 2010 EXAMINATIONS

EXAMINATION: CML5022 – ADMIRALTY JURISDICTION
DATE: MONDAY 6TH SEPTEMBER 2010
TIME: 9.15 am – 10.15 am

Answer ONE question only. Each question carries equal marks.

1. Examine in light of existing case law the extent to which, if at all, one can bring an action against a ship in respect of necessaries supplied or services rendered. Advise moreover whether it is possible to bring an action in rem if the necessaries or services have been supplied or rendered to a “sister” ship.

OR

2. An action in rem may be brought before the Civil Courts of Malta against a ship where the person who would have been liable in an action in persona or the so called “relevant person” was, when the cause of action arose, one of the following two persons:
 - i. an owner of a ship or
 - ii. charterer of, or in possession or in control of the ship.

Secondly, at the time when the action is brought the relevant person must have been:

- i. either an owner or beneficial owner of that ship or;
- ii. the bareboat charterer of it.

Discuss.

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FACULTY OF LAWS
LLD I & II (2013 / 2014)

JANUARY 2014 SESSION OF EXAMINATIONS

CML5022 – ADMIRALTY JURISDICTION

WEDNESDAY 22ND JANUARY 2014

9.15 AM – 10.15 AM

ANSWER ONE QUESTION ONLY

BOTH QUESTIONS CARRY EQUAL MARKS.

1. “ The essence of an action *in rem* is, as its name suggests, that it is an action against a ship.”

Discuss critically the above statement and the extent, if at all, that *in personam liability* is a necessary requisite of an action *in rem*.

OR

2. Examine the juridical requisites to bring an action *in rem* against a sister ship. How relevant is the notion of “beneficial ownership” in a sister ship action *in rem*.



FOURTH & FIFTH YEAR LAW
ELECTIVE UNITS PAST PAPERS

SALVAGE AND TOWAGE



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UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.D. I YEAR/LL.D. II YEAR
SECOND SEMESTER TEST – 1999/2000
SALVAGE, TOWAGE, PILOTAGE & COLLISION
CREDIT CODE: CM024 CREDIT VALUE: 1

DATE OF TEST: 8TH APRIL 2000

TIME: 9.30a.m. to 10.30a.m.

QUESTION ONE

Define "Towage".

AND

Can a tug owner ever claim "salvage" for a service he renders under a Towage Contract?

AND

Discuss the most important features of the "Standard Conditions for Towage and Other Services (Revised 1986)" particularly those clauses exempting the tug from liability.

OR

QUESTION TWO

----- Explain the various causes giving rise to the International Convention on -----
Salvage 1989 and highlight some of the problems arising out of the
Convention.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I AND LLD II YEAR (2007/8)
MAY/JUNE 2008 EXAMINATIONS

EXAMINATION: CML5027 - Salvage, Towage, Pilotage and Collision
DATE: Wednesday, 28th May 2008
TIME: 9.15-10.15a.m.

ANSWER ONE QUESTION ONLY

1. To what extent is the Tug / Tug Owner responsible for damages caused to the tow or third parties by the Tug under the Standard Conditions for Towage and Other Services? Do you believe that the existing liability regime contained in such conditions are fair and acceptable?

OR,

2. Give an outline of the most important sections of the Salvage Convention 1989.

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FACULTY OF LAWS

LLD I AND LLD II YEAR (2009/0)

MAY/JUNE 2010 EXAMINATIONS

EXAMINATION: CML5027 – SALVAGE, TOWAGE, PILOTAGE
AND COLLISION

DATE: TUESDAY 1ST JUNE 2010

TIME: 2.15PM TO 3.15PM

STUDENTS ARE TO ANSWER ONE OF THE FOLLOWING QUESTIONS. ALL
QUESTIONS CARRY EQUAL MARKS.

1. Explain the purpose behind, and the content of, The International Regulations for Preventing Collisions at Sea 1972 with particular emphasis on Rules 11, 12,13,14,15,16, 17 and 18.

OR

2. Discuss the concept of "No Cure No Pay"; explain if it has changed at all over the years and if so, how it has changed contractually and legally.

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LLD I AND LLD II YEAR (2009/0)

SEPTEMBER 2010 EXAMINATIONS

EXAMINATION: CML5027 – SALVAGE, TOWAGE, PILOTAGE AND COLLISION

DATE: FRIDAY 3RD SEPTEMBER 2010

TIME: 9.15 am – 10.15 am

STUDENTS ARE TO ANSWER ONE OF THE FOLLOWING QUESTIONS. ALL QUESTIONS CARRY EQUAL MARKS.

1. The Standard Conditions for Towage and Other Services (Revised 1986) are said to be heavily in favour of the "Tug" with regard to the responsibility or otherwise for damage and injury caused by the Tug and the Tow. Explain in detail the liability and responsibility of both the Tug and the Tow during a towage operation and give your opinion on whether you believe the manner in which this responsibility and liability between Tug and Tow is appropriate.

OR

2. Explain the fundamental principles of traditional Salvage. Have these same principles been upheld or changed at all by the Salvage Convention of 1989. Explain.

UNIVERSITY OF MALTA
FACULTY OF LAWS
MAY/JUNE 2012 SESSION OF EXAMINATIONS
LLD I AND II YEAR (2011/2)

STUDY-UNIT: CML5027 – Salvage, Towage, Pilotage and Collision
DATE: Friday, 22nd June 2012
TIME: 9.15A.M. - 10.15A.M.

ANSWER ONE OF THE FOLLOWING.

ALL QUESTIONS CARRY EQUAL MARKS.

1. Explain the elements of traditional salvage and discuss whether and how the concept of "No Cure, No Pay" has changed over the years.

OR

2. The Standard Towage Conditions for Towage and other services (1986) exempt the tug owner from liability in defined circumstances. Explain in full the extent of the exemption and explain when the tug owner is liable. Discuss this issue in light of Maltese case law on the matter.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LLD I & II

JUNE 2014 SESSION OF EXAMINATIONS

EXAMINATION: CML5027 – SALVAGE, TOWAGE, PILOTAGE AND
COLLISION

DATE: THURSDAY 5TH JUNE 2014

TIME: 2.15PM – 3.15PM

ANSWER ONE QUESTION FROM THE FOLLOWING. BOTH QUESTIONS
CARRY EQUAL MARKS.

1. The UK Standard Conditions and Other Services which have been adopted by Tug Malta Ltd. are said to be drafted heavily in favour of the Tug. Explain in detail the liability regime laid down in these Conditions.
2. One of the major principles of traditional salvage is “No Cure No Pay.” However events, conventions and agreements have caused it to change. Explain the original concept of No Cure No Pay and explain in detail how it has changed and what has caused it to change



Elective Units Past Papers

Admiralty Jurisdiction and Salvage, Towage, Pilotage and Collision

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on academic@ghsl.org

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.B. HONS. 4th YEAR
JANUARY 2016 EXAMINATIONS

**CML4016 - ADMIRALTY JURISDICTION AND SALVAGE, TOWAGE, PILOTAGE AND
COLLISION**

DATE: Tuesday 26th January, 2016

READING TIME: 10.00AM to 10.05AM

DURATION OF EXAM: 10.05AM to 12.05PM

INSTRUCTIONS TO STUDENTS: CANDIDATES ARE TO ANSWER ONE QUESTION FROM SECTION A AND ONE QUESTION FROM SECTION B. STUDENTS ARE TO ANSWER EVERY QUESTION ON A DIFFERENT SCRIPT.

Section A. Salvage, Towage, Collisions and Pilotage.

Either

1. Explain briefly the following:

Salvage

- i. In traditional salvage explain:
- a. The element of Danger
 - b. A recognised subject of Salvage
 - c. Carried out by a volunteer
 - d. Success and No Cure No Pay
- (40 marks)
- ii. Did the Lloyds Open Form '70 and subsequent LOF's change the concept of No Cure No Pay and how? (30 marks)
- iii. How did the Salvage Convention of 1989 deal with special compensation? (30 marks)

Or

2. Explain briefly the following:

Collisions, Towage and Pilotage

- i. What are the "Collision Regulations" and explain the main components (25)
- ii. How do you establish responsibility and liability in a collision and according to which law are these assessed? (15)
- iii. Who do you sue? (15)
- iv. What are and why do we need compulsory pilotage areas? (15)
- v. What is "Towage" and why are the "UK Standard Towage Conditions" heavily in favour of the Tug (30 marks)

Section B. Admiralty

Either

1. (a) Examine the requisites of the warrant of arrest in the light of the current law regulating arrest of ships. (50 marks)

(b) Analyse the various remedies available at law when a vessel is arrested unlawfully. (50 marks)

Or

2. Examine critically the judgments pronounced by the Maltese Courts in the m.v. *Poker* and m.v. *Plopeni* cases. To what extent is the current law regulating the requisites of an action in rem reflective of the conclusions reached by the Courts in these particular cases. (100 marks)

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I/II YEAR
SEPTEMBER 2016 EXAMINATIONS

CML4016 – Admiralty Jurisdiction and Salvage, Towage, Pilotage and Collision

DATE: Friday, 2nd September, 2016

READING TIME: 8.30AM to 8.35AM

DURATION OF EXAMINATION: 8.35AM to 10.35 AM

INSTRUCTIONS TO STUDENTS:

CANDIDATES ARE TO ANSWER ONE (1) QUESTION FROM SECTION A, AND ONE (1) QUESTION FROM SECTION B. STUDENTS ARE TO ANSWER EVERY QUESTION ON A DIFFERENT SCRIPT.

Section A: Salvage, Towage, Collisions and Pilotage.

Either:

1. Explain in detail the meaning of “No Cure No Pay” in traditional salvage and how this notion developed through various editions of the Lloyds Open Form and the Salvage Convention of 1989. (100 marks)

Or:

2. (a) The UK Standard Towage Conditions adopted by Tug Malta have been criticized as being very heavily in favour of the Tug. Explain the liability regime in these conditions and give your views on whether such a regime should be maintained. (50 marks)

- (b) What is Pilotage, why are Pilots required and what are compulsory pilotage areas? (25 marks)

(c) What are the Collision regulations and how are they used to establish fault for a maritime casualty? (25 marks)

Section B: Admiralty

Either

1. (a) Explain the notion of a sister ship arrest. (75 marks)

(b) Describe briefly the importance of the vessels presence within the jurisdiction of the court for a valid arrest and action in rem. (25 marks)

or

2. (a) Examine the juridical requisites of an action in rem under Maltese law. To what extent is the arrest of the vessel a necessary element and what are the procedures leading to the arrest of the vessel. (75 marks)

(b) Under what circumstances does the law allow for the release of the vessel and to what extent would any release effect the requisite of an action in rem. (25 marks)

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.B. HONS. 4th YEAR
JANUARY 2017 EXAMINATIONS

EXAMINATION: CML4016 Admiralty Jurisdiction and Salvage, Towage, Pilotage and Collision

DATE: Monday 16th January 2017

READING & NOTING TIME: 8.30AM to 8.35AM

DURATION OF EXAMINATION: 8.35AM to 10.35AM

Writing is permitted during the Reading and Noting time.

INSTRUCTIONS TO STUDENTS:

CANDIDATES ARE TO ANSWER ONE (1) QUESTION FROM SECTION A, AND ONE (1) QUESTION FROM SECTION B. STUDENTS ARE TO ANSWER EVERY QUESTION ON A DIFFERENT SCRIPT.

Section A. Salvage, Towage, Collisions and Pilotage.

Either:

Question 1 (answer all the below):

- a. Has the concept of “*No cure no pay*” changed over the years and if it has explain how. (25 marks)
- b. Why is it important to have the Collision Regulations and explain the main components (25 marks)
- c. What is Pilotage? Which law governs Pilotage in Malta and is it compulsory – Explain (25 marks)
- d. What is towage and how is towage regulated? Can a Tug claim Salvage? (25 marks)

Or.

Question 2 (answer all the below):

- a. Explain the components of traditional salvage: Danger, Voluntariness, Subject of Salvage, Success (25 marks)
- b. In the case of a collision, how do you establish fault and how do you assess responsibility? (25 marks)
- c. Explain the regime governing responsibility for damage in the Standard Terms and Conditions of Tug Malta Ltd. (25 marks)
- d. Why is there a need for Pilotage and what is the reason behind compulsory pilotage? (25 marks)

Section B. Admiralty

Either

Question 1:

1. Examine the development of the requisites of the action *in rem* through case law. To what extent if at all have the requisites changed as a result of Act XIV of 2006. (100 marks)

Or

Question 2:

2. “Although an action *in rem* is an action against the ship it obviously affects the ship owner” Nigel Meeson “Admiralty Jurisdiction and Practice. Analyse this statement in the context of the evolution of the action *in rem* in Malta. (100 marks)

UNIVERSITY OF MALTA
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**CML 4016 ADMIRALTY JURISDICTION AND SALVAGE, TOWAGE, PILOTAGE
AND COLLISION**

Date: Monday 11th September 2017

Duration of Exam: 10.00am to 12.05pm

INSTRUCTIONS TO STUDENTS:

CANDIDATES ARE TO ANSWER ONE (1) QUESTION FROM SECTION A, AND ONE (1) QUESTION FROM SECTION B. STUDENTS ARE TO ANSWER EVERY QUESTION ON A DIFFERENT SCRIPT.

Section A. Salvage, Towage, Collisions and Pilotage

Either:

Question 1 (answer both questions):

- a. Explain the notion of “No Cure No Pay” in Salvage and how this notion has evolved over the years culminating in the Salvage Convention of 1989 (50 marks)
- b. Why should a ship use the services of a pilot and what makes States declare certain ports to be compulsive pilotage areas. (50 marks)

Or

Question 2

Your client, a ship owner, has called you to say that his Maltese registered vessel has been involved in a collision with another vessel west of Malta in broad daylight. There is no loss of life but both vessels have suffered damages. Both vessels will be coming into Malta for repair.

What advice do you give your client at that early stage of a case and give reasons for your advice.

(100 marks)

Section B. Admiralty

Either

Question 3

Examine the MV Poker related judgements and their impact on subsequent legislation in so far as concerns claims in rem against a vessel which was the subject of a bareboat charter. (100 marks)

OR

Question 4

Examine the procedure and grounds for arresting a vessel and the extent to which a sister vessel may be arrested. To what extent if at all is the arrest of the vessel a requisite to proceed in rem under Maltese law. (100 marks)

UNIVERSITY OF MALTA
FACULTY OF LAWS

CML 4016 – Admiralty-Jurisdiction and Salvage, Towage, Pilotage and Collision

Date : Thursday 1st February 2018

Time: 8.30 am -10.35am

ANSWER ANY TWO QUESTIONS (One question from each section)

All questions carry equal marks

Section A - Salvage, Towage, Collisions and Pilotage

Either:

1. Answer the following:

- (i) Which law do we apply to decide issues of liability for damages in the case of damages arising out of collisions at sea? (25 marks)
- (ii) In the case of damages arising out of the management and navigation of the vessel who is responsible and why? (25 marks)
- (iii) What are the collision regulations and explain their content and composition. (25 marks)
- (iv) Why is Pilotage important and what regulates it in Malta. (25 marks)

2. Answer the following:

- (i) Has the concept of No Cure No Pay in Salvage changed over the years and if it has how? (50 marks)
- (ii) Explain the liability regime in Tug Malta's Standard Towage Conditions. (50 marks)

Section B – Admiralty

Either:

Question 3

To what extent if at all has article 742 D of the Code of Organisation and Civil Procedure changed the requisites for the exercise of an action in rem before the civil courts of Malta. (100 marks)

Or

Question 4

Examine the relevance of "the relevant person" within the context of article 742 D of the Code of Organisation and Civil Procedure. (100 marks)

**University of Malta
Faculty of Laws**

January/February 2019 Examination Session

CML4016 ADMIRALTY JURISDICTION AND SALVAGE, TOWAGE, PILOTAGE AND COLLISION

Date: Friday 8th February 2019

Duration of Examination: 08:30AM-10:35AM

INSTRUCTIONS TO STUDENTS:

This exam paper is divided into two (2) sections; Section A and Section B. Answer **ONE (1)** question from Section A and **ONE (1)** question from Section B.

Section A – Salvage, Towage, Collisions and Pilotage:

1. Answer the following:
 - a. What services does the Sea Pilot perform? What is compulsory pilotage and what are the reasons behind it? (25 marks)
 - b. Which law is applied to establish the liability for damages caused in the case of a collision between two vessels? (25 marks)
 - c. Explain the special provisions if any dealing with damages arising out of the management and navigation of vessels? (20 marks)
 - d. What is the purpose of the "International Regulations for Preventing Collisions at Sea 1972"? Identify the various parts of these regulations and discuss the contents of Part B. (30 marks)

2. Answer the following:
 - a. Explain the traditional criteria which must exist for a successful Salvage claim to be made. (30 marks)
 - b. How has the concept of No Cure No Pay changed over the years? (30 marks)
 - c. Explain the liability regime under the Tug Malta Standard Terms and Conditions for Towage. (40 marks)

Section B – Admiralty:

3. Answer the following:
 - a. Explain the procedure leading to an arrest of a ship. (25 marks)
 - b. Under what circumstances is it possible to obtain the release of a ship? (25 marks)

- c. What impact, if at all, does such release have on the jurisdiction of the Court? (25 marks)
- d. Explain the role of the Authority for Transport in Malta once an arrest has been ordered by the Court. (25 marks)

4. Answer the following:

- a. Exam the requisites for an action in rem before the civil courts of Malta as developed by jurisprudence and the law. (40 marks)
- b. To what extent, if at all, can an action in rem be brought, where the person who would be liable on the claim for an action *in personam* ("the relevant person"), was the charterer and not the owner of the vessel? (40 marks)
- c. Under what circumstances can an action in rem be brought against a vessel which is different from the one in respect of which the claim arose? (20 marks)



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FACULTY OF LAWS
DEPARTMENT OF COMMERCIAL LAW
FEBRUARY 2021 EXAMINATION SESSION

CML4016 Admiralty Jurisdiction and Salvage,
Towage Pilotage and Collision

Thursday, 11th February 2021

Examination time: 8:30 – 10:30 + 15 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone: 2340 3251; 2340 3204

Email: laws@um.edu.mt

Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

By sitting for this examination, I declare that I am aware of the provisions of the regulations regarding conduct during examinations and I pledge to observe them.

Students may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

Students may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

With regard to FLOWmulti examinations, you are advised to type directly on WISEflow (and not on MS Word intending to copy and paste on WISEflow).

With regard to FLOWassign examinations, you are advised to upload your work in PDF format.

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INSTRUCTIONS TO STUDENTS:

Answer **ONE (1)** question from **Section A** and **ONE (1)** question from **Section B**.

SECTION A: SALVAGE, TOWAGE, COLLISIONS AND PILOTAGE

1. Answer the following:

- a) How has the concept of "No Cure no Pay," evolved through various editions of the Lloyds Open Form and the Salvage Convention 1989? (50 marks)
- b) What law and/or regulations govern issues of liability in the case of a collision at sea? (50 marks)

2. Answer the following:

- a) Why is there need for Pilotage and discuss the most important parts of the Pilotage Regulations? (50 marks)
- b) Analyse the liability regime of Tug Malta in Tug Malta' Standard Terms and Conditions. (50 marks)

SECTION B: ADMIRALTY

3. Answer the following:

- a) Examine the various options and remedies available to the vessel or its owners to obtain the release of a vessel from the effects of an arrest order, including challenging the validity of the arrest. (70 marks)
- b) Explain briefly what remedies are available to an arresting creditor when the vessel subject to an arrest order absconds from the Maltese jurisdiction. (30 marks)

4. To what extent, if at all, does Article 742D (a) of Chapter 12 of the Laws of Malta, reflect the position adopted by the Maltese courts prior to 2006? (100 marks)