

**Circular from NORDISK****Date: 5 February 2013****Saleform 93 - New English Judgement**

In a new judgement High Court in London held that when a vessel is sold pursuant to the terms of Saleform 93, there is an implied term of the contract that the vessel shall be in satisfactory condition. This requirement follows from the English Sale of Goods Act 1979, but the parties can agree that the implied term of satisfactory condition shall not apply. The judge held that Saleform 93 did not contain clear wording to exclude the term.

The general perception of sales made pursuant to Saleform 93 (and previous versions of Saleform) was that they were “as is” sales, and the buyer would not have any claim against the seller if it later turned out that the vessel had defects, i.e. that the vessel was not in a satisfactory condition.

In Saleform 2012 there is an entire agreement clause. It follows from the judgement that if this clause had been incorporated in the contract, the buyer would have no claim for defects on the vessel except for breach of other clauses of the contract, such as seller’s responsibility for average damage effecting class.

We would recommend that if our members are selling vessels, they should use Saleform 2012, or at least incorporate the terms in the sale contracts similar to the entire agreement clause in Saleform 2012. A warranty that the vessel is in satisfactory condition may cause the seller to incur significant loss.

The relevant judgement is *Dalmare SpA v Union Maritime Ltd (The “Union Power”)* [2012] EWHC 3537 (Comm).

Source of Information: Nordisk Legal Services

---

ALCO Circulars are issued regularly and contain important information such as Loss Prevention article, News, and Case Studies. It is specially designed for the clients of Andrew Liu & Co., Ltd, with intention of providing the latest information from shipping insurance market. Recently issued circulars can also be found on our website [www.andrewliu.com.hk](http://www.andrewliu.com.hk). For further information, please contact our Marketing Department via 0086 21 60399288 or [marketing@andrewliu.com.hk](mailto:marketing@andrewliu.com.hk).