

Insurance law

Pre-study guide

Please read these notes carefully before you start this course, especially if you have not studied law before.

The purpose of this introduction is to help you study effectively and prepare for the exam as well as possible. In these notes, we discuss the relationship between the syllabus, the study text and the exam. We also offer some guidance on the special features of law as a subject (including the role of case law) and what this implies for the way in which you should study.

The syllabus and the study text

You should begin by looking carefully at the **syllabus** for (P05) Insurance law. Note carefully the **knowledge ratings** that have been indicated for each syllabus item.

A rating between 1 and 3 appears alongside each syllabus item. These indicate the depth of understanding and level of detail you will need for each item of the syllabus, with 1 indicating that general background awareness is needed; 2 that a broad understanding and some detailed knowledge of the principles and concepts of law and their application is required; and 3 indicating that you will need a detailed knowledge and in-depth understanding of legal principles and the ability to apply them to problem situations.

- You will see that chapters 1 and 2 of the study text cover topics which have a knowledge rating of 1, and require general background awareness only.
- Chapters 3, 4 and 5 of the study text cover topics which mainly have a knowledge rating of 2 and which therefore require a broad understanding and some detailed knowledge. Note that there are one or two exceptions; for example, syllabus item 4.9 (Assignment in the context of insurance) and 5.6 (How the law of agency applies to insurance) have a knowledge rating of 3. These items are covered in chapters 4 and 5 of the study text.
- Most of the material in chapters 6–12 of the study text has a knowledge rating of 3 – which means that you will need to acquire a more detailed knowledge and deeper understanding of the subjects covered. These chapters contain most of the ‘core topics’ of insurance law.

The exam

Question types

If you read past exam papers you will see that there are different types of question, each requiring a different approach. The most common types are:

Type 1 – ‘Bookwork’ questions where you are asked to describe something related to insurance law (such as the principle of a particular case, or the contents of a statute).

Type 2 – ‘Problem’ questions, where you are required to **apply** legal principles to a given situation, such as a disputed insurance claim.

Type 3 – ‘Discussion’ questions, where you are required to **discuss and give your opinion** on a legal issue (such as the reform of the law of good faith).

Questions in Part 1 of the exam (numbered 1–14)

- These are ‘short answer’ questions
- They relate to all parts of the syllabus and to topics discussed in all chapters of the study text
- They are normally of types 1 or 2 (‘bookwork’ or ‘problem’)
- ‘Problems’ are usually relatively simple, involving only one or a few issues

Questions in Part 2 of the exam (numbered 15–18)

- These are longer ‘essay style’ questions
- They mainly relate to syllabus items with a knowledge rating of 3 and to topics discussed in chapters 6–12 of the study text
- They are normally of types 2 or 3 (‘problem’ or ‘discussion’)
- ‘Problems’ are likely to be more complicated than those in part 1 of the exam and could involve several issues

Some tips on studying law

Law is unlike some other subjects in that there is not necessarily a single 'correct' answer to problems that are set. Often there are alternative, equally valid answers. For example, in a claims dispute between an insured and an insurer, there may be quite strong arguments to be put by both sides.

A good exam answer, especially to a type 2 'problem' question may require you to put forward alternative answers and solutions to some parts of the problem. In any event, you must be prepared to discuss the question thoroughly – it is usually a mistake to leap to a quick and brief solution!

Do I need to 'learn' hundreds of legal cases including all the case names and dates?

The answer to this is 'no'. You do not have to 'learn' cases as such. What you must do is build up an understanding of the **principles** that have been established through case law, and especially through the leading or 'landmark' cases.

Quite often it will help if you can refer to the cases from which these principles come, but the name and the date of a case are not very important in themselves. It is quite acceptable to say 'In an old case involving some captured enemy ships the court decided that ... etc.', or 'In a recent case involving the theft of jewellery from a car the court held that ... etc.'

Obviously, you will get some credit if you can remember the name and date of relevant cases, but you will not lose many marks if you cannot.

How much of the facts of a case do I need to remember?

The most important aspect of any case is the principle(s) which the case established or illustrates. The facts of cases are rarely of much importance in themselves. For some important cases, none of the facts are given in the study text, e.g. the House of Lords decisions in *Napier v. Hunter* (1993). On other occasions it is necessary to describe the facts in some detail to help the reader understand what would otherwise be a very difficult principle to grasp. See, for example, the leading case on proximate cause, *Leyland Shipping v. Norwich Union Fire Insurance Society Ltd* (1918), where it is necessary to describe the events which led up to the sinking of a ship in order to understand the case fully.

Similarly, you will need to describe the facts of a case in the exam only when this is necessary in order to explain properly the underlying principle of law, or when you are specifically asked to do so.

Which are the important cases?

There are many cases in the study text and in most books on insurance law. This is inevitable, because case law is the major component of insurance law. The important cases are those in which the court established a new principle of law, especially on a point of great importance. Other cases are decisions on minor points of law only, or simply there as illustrations of how the established law has been applied.

Learning to recognise important cases can seem difficult at first, but it becomes much easier as you familiarise yourself with the subject. Bear in mind the following points.

- Decisions of the House of Lords (now Supreme Court) are nearly always of considerable importance – these are identified in the study text, e.g. 'In the case of ...The House of Lords decided ...'.
- Landmark cases can often be identified by the use of words such as 'important' or 'leading' in the study text.
- Landmark cases are usually discussed in some detail in the study text. Less important cases usually occupy a few lines only.

Finally, you will have learned from these notes that some syllabus items, some parts of the study text and some cases are particularly important. However, bear in mind that any area of law (such as insurance law) is a complete structure. You will need to view the whole structure and see how it all fits together before you can understand clearly what the various parts do. For this reason, you should read the whole of the study text (assuming the CII text is the main one you are using) to get a good idea of the shape of the subject before studying any part of it in detail.