

Insurance law

Purpose

At the end of this unit, candidates should be able to:

- demonstrate a knowledge and understanding of the laws which form the background to the operation of insurance;
- demonstrate a knowledge and understanding of the system within which these laws operate and are administered;
- apply knowledge and skills to practical situations.

Assumed knowledge

It is assumed the candidate has the knowledge gained from a study of the fundamental principles and practices of insurance as covered in IF1 Insurance, legal and regulatory or equivalent.

Summary of learning outcomes

1. Understand the nature and sources of law and legal systems.
2. Understand the concept of legal personality.
3. Understand the principles of the law of tort and the characteristics of the main Torts.
4. Understand the law of contract.
5. Understand the law of agency and its application to insurance.
6. Understand the main principles governing the formation of insurance contracts.
7. Understand how the terms of insurance contract are classified and the effect of a breach of an insurance contract term by the insured and of other vitiating factors.
8. Understand the main legal principles governing the making of an insurance claim.
9. Understand how losses are measured and how the principle of indemnity applies to insurance claims.
10. Understand how the principles of subrogation and contribution apply to insurance claims.

Important notes

- **Method of assessment:** Part I – 14 compulsory questions (140 marks). Part II – 2 questions selected from 4 (60 marks). Total of 200 marks. Three hours are allowed for this exam.
- The syllabus is examined on the basis of English law and practice unless otherwise stated.
- The general rule is that the exams are based on the English legislative position six months before the date of the exams.
- Candidates should refer to the CII update website www.cii.co.uk/updates for the latest information on changes to law and practice and when they will be examined.

Knowledge ratings

General background awareness necessary.	1
Requires a broad understanding and some detailed knowledge of the principles and concepts of law and their application.	2
Requires a detailed knowledge and in-depth understanding of legal principles and the ability to apply them to problem situations.	3

1. Understand the nature and sources of law and legal systems	
1.1 Describe the classification of law and the main branches of public and private law.	1
1.2 Describe the characteristics of English law and the UK legal system.	1
1.3 Describe the development of common law and of equity.	1
1.4 Describe the principal sources of law: legislation and judicial precedent (case law).	1
1.5 Outline the minor sources of law.	1
1.6 Describe delegated legislation and statutory interpretation.	1
1.7 Describe the effect of supra-national legislation, such as EC law, on national systems.	1
1.8 Describe the structure of the courts, the judiciary and the system of precedent.	1
1.9 Describe the elements of civil procedure and methods for the funding of litigation.	1
2. Understand the concept of legal personality	
2.1 Describe the status and capacity of natural legal persons and corporations.	1
2.2 Describe the main types of corporation and their characteristics.	1
2.3 Describe unincorporated associations and their characteristics.	1
2.4 Describe partnerships and their characteristics.	1
2.5 Describe the Crown and its characteristics.	1
2.6 Describe trade unions and their characteristics.	1
3. Understand the principles of the law of tort and the characteristics of the main torts	
3.1 Describe the nature and classification of torts.	1
3.2 Explain the law of negligence: duty of care, breach of duty and rules concerning damage, including liability for economic loss and psychiatric injury.	2
3.3 Explain general characteristics of the other main torts: trespass, nuisance, the rule in Rylands v. Fletcher, breach of statutory duty and defamation.	2
3.4 Explain the application of tort and liability law in the context of employers' liability, liability for defective products and liability for dangerous or defective premises.	2
3.5 Explain the main defences in tort.	2
3.6 Explain the main remedies in tort.	2
3.7 Explain limitation of actions.	2
4. Understand the law of contract	
4.1 Explain the nature of contractual liability and classification of contracts.	2
4.2 Explain the rules governing the formation of a contract.	2
4.3 Explain how contract terms are classified under the general law.	2
4.4 Explain elements which affect the validity of contracts.	2
4.5 Explain the circumstances in which a contract may be discharged.	2
4.6 Explain remedies for breach of contract.	2
4.7 Explain the doctrine of privity of contract and the effect of the Contracts (Rights of Third Parties) Act 1999.	2
4.8 Explain the assignment of contractual rights and duties.	2
4.9 Explain assignment in the context of insurance and apply this to problem situations.	3
5. Understand the law of agency and its application to insurance	
5.1 Explain the nature of agency.	2
5.2 Explain the relationships between agents, principals and third parties.	2
5.3 Explain the creation of agency.	2
5.4 Explain the nature of an agent's rights, responsibilities, authority and duties.	2
5.5 Explain the termination of agency and its effects.	2
5.6 Explain how the law of agency applies to insurance and apply this to problem situations.	3
6. Understand the main principles governing the formation of insurance contracts	
6.1 Explain how the general principles of contract law apply to insurance.	2
6.2 Explain the concept and nature of insurable interest and apply this to problem situations.	3
6.3 Explain the application of the doctrine of insurable interest to the main classes of insurance and apply this to problem situations.	3
6.4 Explain potential reform of the law relating to insurable interest.	2
6.5 Explain the doctrine of utmost good faith and apply this to problem situations.	3
6.6 Explain misrepresentation in the context of insurance and apply this to problem situations.	3

6.7	Explain the duty of disclosure in the context of insurance and apply this to problem situations.	3	8.5	Explain the application of the doctrine of proximate cause in the case of 'chains of events', concurrent causes and efforts to avoid or reduce loss and apply these to problem situations.	3
6.8	Explain the Breach of good faith by the insured or the insurer: consequences and remedies and apply this to problem situations.	3			
6.9	Explain the effect of the FSA Insurance Conduct of Business (ICOB) rules on the doctrine of utmost good faith and apply this to problem situations.	3	9. Understand how losses are measured and how the principle of indemnity applies to insurance claims		
6.10	Explain potential reform of the law relating to good faith.	2	9.1	Explain the principle of indemnity and apply this to problem situations.	3
7. Understand how the terms of insurance contract are classified and the effect of a breach of an insurance contract term by the insured and of other vitiating factors			9.2	Explain the measure of indemnity in various classes of insurance and apply this to problem situations.	3
7.1	Explain the classification of insurance contract terms and apply this to problem situations.	3	9.3	Explain the factors which limit, reduce, extend or modify the principle of indemnity and apply these to problem situations.	3
7.2	Explain the nature of warranties, conditions and other insurance contract terms and apply these to problem situations.	3	9.4	Explain the methods of providing indemnity and apply this to problem situations.	3
7.3	Explain the effect of breach of warranty or condition and apply this to problem situations.	3	9.5	Explain the doctrine of salvage and abandonment and apply this to problem situations.	3
7.4	Explain the effect of the FSA Insurance Conduct of Business (ICOB) rules on the law of warranties and conditions and apply this to problem situations.	3	9.6	Explain the effect of claim payments on policy cover and apply this to problem situations.	3
7.5	Explain potential reform of the law of warranties and conditions.	2	10. Understand how the principles of subrogation and contribution apply to insurance claims		
7.6	Explain void and illegal insurance contracts and apply this to problem situations.	3	10.1	Explain the principle and operation of subrogation as a corollary of indemnity and apply this to problem situations.	3
7.7	Explain the distinction between joint and composite insurance contracts and its implications in the case of fraud or other breach by the insured and apply this to problem situations.	3	10.2	Explain the source of subrogation rights and apply this to problem situations.	3
8. Understand the main legal principles governing the making of an insurance claim			10.3	Explain subrogation, abandonment and salvage and apply this to problem situations.	3
8.1	Explain parties who can claim on or benefit from an insurance contract and apply this to problem situations.	3	10.4	Explain how subrogation rights may be modified or denied and apply this to problem situations.	3
8.2	Explain the rules governing notice and proof of loss and apply this to problem situations.	3	10.5	Explain the nature of double insurance and contribution and how contribution arises at common law.	3
8.3	Explain the construction of insurance contracts and apply this to problem situations.	3	10.6	Explain the operation of contribution at common law and the effect of common contribution conditions.	3
8.4	Explain the doctrine of proximate cause and apply this to problem situations.	3	10.7	Explain methods of ascertaining the ratio of contribution.	3
			10.8	Apply the principle of contribution to the main lines of insurance.	3
			10.9	Explain the effect of market agreements on rights of contribution and apply this to problem situations.	3

Reading list

The following list provides details of various publications which may assist with your studies.

These will help candidates keep up-to-date with developments and will provide a wider coverage of syllabus topics.

The reading list is provided for guidance only and is not in itself the subject of the examination.

CII/Personal Finance Society members can borrow most of the additional study materials below from Knowledge Services.

CII study texts can be consulted from within the library. For further information on the lending service, please go to www.cii.co.uk/knowledge/resources.

CII study texts

Insurance law. London: CII. Study text P05

Insurance, legal and regulatory. London: CII. Study text IF1.

Additional reading

Additional reading materials are available through the library or on the Knowledge Services website.

New materials are added frequently – for information about new books and articles in your area of interest, please visit www.cii.co.uk/knowledge or email knowledge@cii.co.uk.

Books (and ebooks)

Company law. J Charlesworth et al. London: Sweet and Maxwell, 2011.

Public companies and equity finance. Alexis Mavrikakis. Guildford: College of Law, 2012.

Palmer's limited liability partnership law. Geoffrey Morse (ed). 2nd ed. London: Sweet and Maxwell, 2011.

Smith and Keenan's English law: text and cases. Dennis Keenan. 16th ed. Harlow, England: Pearson Education, 2010.

Business law. Denis Keenan and Sarah Riches. 8th ed. Harlow : Pearson Longman, 2007. Also available as an ebook via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Essential law for your business: a practical guide to all legal and financial requirements. 13th ed. Patricia Clayton. Kogan Page, 2009. Also available as an ebook via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Principles of European Insurance contract law: a model optional instrument. Sellier European Law Publishers, 2011. Also available as an ebook via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Insurance theory and practice. Rob Thoyts. Routledge, 2010. Also available as an ebook via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Drafting insurance contracts: certainty, clarity, law and practice. Christopher Henley. London: Leadenhall press, 2010.

Birds' modern insurance law. John Birds. 8th ed. London: Sweet & Maxwell, 2010.

The law of insurance contracts. Malcolm A Clarke. 6th ed. London: Informa, 2009.

The modern law of insurance. Andrew McGee. 3rd ed. London: LexisNexis, 2011.

MacGillivray on insurance law: relating to all risks other than marine. 11th ed. London: Sweet & Maxwell, 2008.

Colinvaux's law of insurance. 9th ed. London: Sweet & Maxwell, 2010.

Insurance law: text and materials. Ray Hodgkin. 2nd ed. London: Cavendish, 2002. Also available as an ebook via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Claims handling law and practice: a practitioner's guide. Richard West et al. London: Witherby, 2008.

Insurance claims. Alison Padfield. 2nd ed. Haywards Heath, West Sussex: Tottel, 2007.

Tort law: text, cases and materials. Jenny Steele. 2nd ed. Oxford: Oxford University Press, 2010.

Casebook on torts. Richard Kidner. 11th ed. Oxford: Oxford University Press, 2010.

Tort law and liability insurance. Gerhard Wagner. Wien: Springer, 2005.

Subrogation: law and practice. Charles Mitchel et al. Oxford: Oxford University Press, 2007.

Subrogation and contribution in insurance practice. RM Walmsley. London: Witherby, 2001.

Factfiles and other online resources

The Financial Ombudsman Service and general insurance. Peter Tyldesley, Saira Paruk. Updated as necessary. Available online via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Recent developments in tort. Alan Peck. Updated as necessary. Available online via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Civil Procedure rules. Alan Peck. Updated annually. Available via www.cii.co.uk/knowledge/resources (CII/Personal Finance Society members only).

The regulation of general insurance business. Ian Youngman. Updated annually. Available via www.cii.co.uk/knowledge/resources (CII/Personal Finance Society members only).

The regulation of general insurance and protection business. Ian Youngman. Updated annually. Available via www.cii.co.uk/knowledge/resources (CII/Personal Finance Society members only).

Contracts for Difference. iMinds. Mosman : iMinds, 2009. [Introductory text, 2 pp.] Available online via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Treating customers fairly. Financial Services Authority. London: FSA, 2011. Available online via www.fsa.gov.uk.

Reservation of rights. AIRMIC. 2009. Available via www.airmic.com (register your details to access).

Contract certainty: an Airmic guide for risk managers and insurance buyers. AIRMIC. 2009. Available via www.airmic.com (register your details to access).

Delivering excellence in insurance claims handling: claims best practice guide. AIRMIC. 2010. Available via www.airmic.com (register your details to access).

Further articles and technical bulletins are available at www.cii.co.uk/knowledge/resources (CII and Personal Finance Society members only).

Journals and magazines

The Journal. London: CII. Six issues a year. Also available via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Post Magazine. London: Incisive Financial Publishing. Weekly.

Insurance law monthly. London: Informa. Monthly.

Legal digest. DAC Beachcroft. Monthly. Available online via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Reference materials

Dictionary of insurance. C Bennett. 2nd ed. London: Pearson Education, 2004. Also available as an ebook via www.cii.co.uk/knowledge/resources (CII/Personal Finance society members only).

Colinvaux & Merkin's Insurance contract law. Robert M Merkin. Brentford: Sweet & Maxwell. Looseleaf, updated.

Examination guides

Guides are produced for each sitting of written answer examinations. These include the exam questions, examiners' comments on candidates' performance and key points for inclusion in answers.

You are strongly advised to study guides for the last two sittings. Please visit www.cii.co.uk to buy online or contact CII Customer Service for further information on +44 (0)20 8989 8464.

Older examination guides are available (for members only) via www.cii.co.uk/knowledge/resources.

Exam technique/study skills

There are many modestly priced guides available in bookshops. You should choose one which suits your requirements.