

P05

Diploma in Insurance

Unit P05 – Insurance law

October 2014 examination

Instructions

- Three hours are allowed for this paper.
- **Do not begin writing until the invigilator instructs you to.**
- **Read the instructions on page 3 carefully before answering any questions.**
- Provide the information requested on the answer book and form B.
- You are allowed to write on the inside pages of this question paper, but you must **NOT** write your name, candidate number, PIN or any other identification anywhere on this question paper.
- The answer book and this question paper must **both be handed in personally by you** to the invigilator before you leave the examination room. **Failure to comply with this regulation will result in your paper not being marked and you may be prevented from entering this examination in the future.**

Unit P05 – Insurance law

Instructions to candidates

Read the instructions below before answering any questions

- **Three hours** are allowed for this paper which carries a total of 200 marks, as follows:

Part I	14 compulsory questions	140 marks
Part II	2 questions selected from 4	60 marks

- You should answer **all** questions in Part I and two out of the four questions in Part II.
- You are advised to spend no more than two hours on Part I.
- Read carefully all questions and information provided before starting to answer. Your answer will be marked strictly in accordance with the question set.
- The number of marks allocated to each question part is given next to the question and you should spend your time in accordance with that allocation.
- You may find it helpful in some places to make rough notes in the answer booklet. If you do this, you should cross through these notes before you hand in the booklet.
- It is important to show each step in any calculation, even if you have used a calculator.
- If you bring a calculator into the examination room, it must be a silent, battery or solar-powered non-programmable calculator. The use of electronic equipment capable of being programmed to hold alphabetic or numerical data and/or formulae is prohibited. You may use a financial or scientific calculator, provided it meets these requirements.
- Answer each question on a new page. If a question has more than one part, leave six lines blank after each part.

PART I

Answer ALL questions in Part I
Each question is worth ten marks

Note form is acceptable where this conveys all the necessary information

1. List **three** ways in which an agency relationship may be created and **seven** ways in which it might be terminated. (10)

2. (a) Explain, in the context of hearing cases, how the court decides that a case should be allocated to:
 - (i) the small claims track; and (2)
 - (ii) the fast track. (2)

- (b) Explain what effect 'Part 36 offers' and 'Part 36 payments' have on a court hearing. (6)

3. (a) Joanne enters into a contract to buy a bike from ABC Ltd, so she can cycle to work, and six new handbags. Joanne refuses to pay the full price for these purchases claiming that as she is only 17 years old, special rules of law apply and she cannot be sued.

Explain to ABC Ltd their legal position, citing case law in support of your answer. (6)

- (b) Joanne later enters into a contract to buy an oil painting from XYZ Ltd which she does not pay for but sells to Sarah for £500. Joanne uses part of this money to purchase a stereo and the balance is spent on a holiday.

Explain to XYZ Ltd their legal position. (4)

4. Describe the circumstances and the principle(s) of law illustrated by **one** of the following cases.

Overseas Tankship (UK) v Morts Dock and Engineering Co. Ltd (1961) (The Wagon Mound).

OR

Hedley Byrne v Heller and Partners (1963). (10)

5. (a) Outline the **two** forms of injunction that a court may award in a civil court. (4)
- (b) Explain briefly, what is meant by the following terms, giving **one** example, where appropriate, of the types of loss that could form part of a claim:
- (i) Special damages. (2)
 - (ii) General damages. (2)
 - (iii) Nominal damages. (2)
6. (a) Explain what is meant by the following terms:
- (i) Natural legal person. (2)
 - (ii) A juristic person. (2)
 - (iii) An unincorporated association. (2)
- (b) Explain briefly to what extent a member of an unincorporated association can be held liable in respect of a contract entered into, on behalf of the association. (4)

QUESTIONS CONTINUE OVER THE PAGE

7. (a) Paul, who is employed as a mechanic, and Jenny are married. Paul's elderly aunt lives with them and helps take care of their two young children. Paul would like to effect life insurance policies on his aunt's life, to cater for her funeral expenses, and his employer's life.
- Advise Paul as to the extent of his insurable interest in both his aunt's and employer's life. (6)
- (b) Explain briefly, quoting relevant statute, whether:
- (i) Jenny can effect a life policy on her own life and on Paul's life; (2)
- (ii) Paul's children can effect a life policy on Paul's life. (2)
8. (a) Explain how a breach of good faith and a breach of contract can arise. (4)
- (b) State the effect the following breaches have on an insurance contract:
- (i) breach of a condition precedent to the contract; (2)
- (ii) breach of a condition precedent to liability; (2)
- (iii) breach of a collateral condition. (2)
9. The general rule in the law of agency is that an agent must perform his duties towards his principal in person.
- State the **five** exceptions to this rule. (10)
10. Explain the main provisions of **one** of the following pieces of legislation:
- Consumer Protection Act 1987.
- OR**
- Third Parties (Rights Against Insurers) Acts 1930, as amended in 2010. (10)

11. (a) State the **two** things an insured must establish in order to discharge the burden of proving a loss under a policy. (4)
- (b) State **three** basic obligations which the Insurance: Conduct of Business (ICOBS) Rules place on insurers when handling claims. (6)
12. (a) State the **four** ways in which an insurer can provide indemnity in the event of a claim under a policy. (4)
- (b) Identify the **two** circumstances when 'betterment' can arise in buildings insurance, giving **one** example for **each** circumstance to support your answer. (6)
13. (a) Outline the **three** factors a claimant must prove in order for an action to succeed in negligence. (3)
- (b) *Donoghue v Stevenson* (1932) is the leading case in the tort of negligence.
- Outline the circumstances of this case and state the **two** principles that were established following the decisions of the courts. (7)
14. Jane is walking along the beach when she is hit on the head by a golf ball. She sues the local golf club claiming that the injury she has suffered is as a result of their breach of duty of care. However, the club argues that they had taken sufficient precautions by erecting a boundary fence around the golf course and, although there have been three occasions when golf balls have left the golf course over the last 25 years, nobody has been injured.
- Advise the golf club as to the extent of their liability, citing case law in support of your answer. (10)

QUESTIONS CONTINUE OVER THE PAGE

PART II

Answer TWO of the following FOUR questions
Each question is worth 30 marks

15. (a) Define what is meant by misrepresentation in the general law of contract and outline the **three** types of misrepresentation. (8)
- (b) State the **five** requirements which must be met in order for misrepresentation to have a damaging effect on the contract. (5)
- (c) Explain what is meant by the term 'qualifying misrepresentations' in relation to consumer insurances and state the remedies now available to insurers as a result of the Consumer Insurance (Disclosure and Representations) Act 2012. (17)
16. (a) Brian is a metal fabricator and stores on his premises a large quantity of oil which he uses for heating purposes. A leak occurs in the storage tanks and causes damage to his neighbour Stan's property. Brian's insurers investigate the cause of the loss and conclude that there has been no negligence on the part of Brian and decline to handle the claim.
- Advise Stan as to his legal position, citing a leading case to illustrate your answer. (12)
- (b) John sees that the oil is leaking and is heading towards his property. In an attempt to prevent a loss from occurring, he decides to dig a large trench around his property which successfully contains the spillage and as a result no damage to his premises occurs. He submits a bill to his property insurers for the cost of constructing the trench, but they refuse to reimburse him, stating that there has been no damage to his property.
- Advise John as to the extent of his insurer's liability, quoting relevant case law to support your answer. (18)
17. (a) Explain how the doctrine of salvage and abandonment applies to both marine and non-marine insurances. (22)
- (b) Explain briefly the key differences between the operation of the doctrine of subrogation and the doctrine of abandonment and salvage. (8)

18. (a) Explain the literal rule and the effect it has on the interpretation of statutes, citing an example of case law in support of your answer. (10)
- (b) Explain how the '*noscitur a sociis*' and '*ejusdem generis*' rules can be used by courts when attempting to resolve disputes about the meaning of words in insurance policies, citing cases drawn from insurance in support of your answer. (17)
- (c) List **three** other common law rules which can be used to assist with the interpretation of policy wording. (3)

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