

P05

Diploma in Insurance

Unit P05 – Insurance law

April 2015 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. (a) List the **three** divisions of the High Court. (6)
- (b) Explain briefly the effect a decision made by a High Court judge, hearing a civil case, has on:
- (i) an inferior court; (2)
- (ii) another High Court judge sitting alone. (2)
2. Distinguish between the following sources of European Community Law:
- (a) Regulations. (4)
- (b) Directives. (4)
- (c) Decisions. (2)
3. (a) State the definition of a 'partnership' as contained in the Partnership Act 1890. (2)
- (b) List the **two** most important documents which must be filed with the Registrar of Companies when a company is formed. (2)
- (c) Explain briefly the extent to which a corporation can:
- (i) enter into a contract; (3)
- (ii) commit a crime. (3)

4. (a) Outline briefly the **two** forms that the tort of defamation can take, giving an example of **each**. (6)
- (b) List **four** special defences that are available to a defendant in the tort of defamation. (4)
5. (a) State the **three** duties in relation to the safety of employees that are imposed upon an employer at common law. (6)
- (b) Outline the effect of the Health and Safety at Work etc. Act 1974 in relation to these duties. (4)
6. Karen parks her car at a local shopping centre, collecting a ticket at the automatic barrier outside the car park. Returning to her car several hours later, she trips in a hole in the car park and breaks her arm. Karen sues the owners of the shopping centre for the injury she suffered but they deny liability stating that notices were displayed in the car park which contained the following statement:
- ‘The owners of these premises do not accept responsibility for bodily injury to any visitor or damage to the property of any visitor, whether caused by negligence or not’.
- Advise the shopping centre owners of their legal position, making particular reference to the effect of the exclusion clause. Cite **one** example of case law in support of your answer. (10)
7. State the **five** ways in which a contract may become discharged by frustration. (10)
8. In relation to the law of agency, describe **one** of the following:
- Actual authority.
- OR**
- Apparent (or ostensible) authority. (10)

QUESTIONS CONTINUE OVER THE PAGE

9. (a) Outline what effect the introduction of the Gambling Act 2005 had on insurance policies on goods and state which principle of law operates to protect insurers. (6)
- (b) List **four** examples of persons, other than outright owners, who may have an insurable interest in property. (4)
10. Describe the circumstances and the principle(s) of law illustrated by **one** of the following cases:
- Macaura v Northern Assurance Co. Ltd (1925).*
- OR
- North British and Mercantile Insurance Co. v London, Liverpool and Globe Insurance Co. (1877) (King and Queen Granaries).* (10)
11. (a) Explain briefly what is meant by the term 'suspensive condition' and the effect a breach of such a condition has on a contract of insurance. (4)
- (b) Andrew is a building contractor and negligently causes damage to third party property. He submits a claim to his insurer, BC Insurance Company, for the cost of the repairs. The insurer declines the claim stating that Andrew failed to supply the declaration of wages used to adjust the premium, as required by a policy condition.
- Advise Andrew as to whether BC Insurance Company is entitled to refuse to pay the claim, citing **one** example of case law in support of your answer. (6)
12. (a) State **two** examples of contracts which must be in writing. (4)
- (b) State **one** common law remedy and **two** equitable remedies available to an aggrieved party in the event of a breach of contract. (6)

13. (a) Distinguish briefly between independent perils and interdependent perils. **(6)**

(b) A valid claim is assessed to have arisen as a result of interdependent perils.

State how a claims settlement would be effected by the operation of an insured peril with:

(i) An uninsured peril. **(2)**

(ii) An excluded peril. **(2)**

14. Margaret has an 'all risks' insurance policy which has a condition requiring her 'to take reasonable care to prevent loss'. She parks her car in the car park of a motorway service station and leaves her jewellery, valued at £25,000, in a secured box in the boot of her locked car. She returns five minutes later and discovers that her car along with its contents, have been stolen. Margaret's motor insurers settle her claim for the theft of the car but her 'all risks' insurers decline to reimburse her for the loss of the jewellery, stating that she had failed to comply with the policy condition.

Advise Margaret as to her legal position, using the leading case to support 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) Explain what is meant by the following terms:
- (i) Insurance cover on a reinstatement basis. (6)
 - (ii) Reinstatement as a means of providing indemnity. (6)
- (b) Outline the difficulties which insurers could encounter if indemnity was provided by way of reinstatement. (4)
- (c) Peter, an agricultural contractor, purchases some old partially derelict farm buildings near to where he lives for a sum of £35,000. He insures the buildings for £225,000 which represents the total value of the buildings once they have been rebuilt. Three months later a violent storm occurs, causing severe damage. Peter submits a claim to his insurer, Northern Farm Insurance Company, stating that the buildings were to be used to store his farm equipment and livestock during the winter. However, during the insurer's inspection of the damaged buildings, Peter's wife, Jennifer, reveals that Peter has received an offer from a nearby farmer to buy the buildings.
- Advise Northern Farm Insurance Company as to the extent of their liability to indemnify Peter, citing case law to support your answer. (14)
16. (a) State the **two** duties imposed by the doctrine of utmost good faith on the parties to a non-consumer (business) insurance contract. (4)
- (b) The Marine Insurance Act 1906 s.18(2) defines a 'material fact' as follows:
- 'Every circumstance is material which would influence the judgement of a prudent insurer in fixing the premium or determining whether he will take the risk.'*
- Explain what is meant by 'influence the judgement of a prudent insurer' and include reference to key case law to support your answer. (26)

17. (a) Explain briefly what is meant by the following terms:
- (i) Insured peril. (2)
 - (ii) Uninsured peril. (2)
 - (iii) Excluded peril. (2)
- (b) Discuss the extent to which the doctrine of proximate cause can be excluded or modified by the particular words used in the policy. Cite case law in support of your answer. (24)
18. (a) Outline the **two** ways in which the doctrine of subrogation can operate in insurance. (4)
- (b) State the **two** factors which determine the way in which any recovery from a third party is shared between the insured and the insurers. (2)
- (c) Explain how market agreements modify the application of the doctrines of subrogation **and** contribution in both property and motor insurance, giving examples in support of your answer. (24)

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