

P05

Diploma in Insurance

Unit P05 – Insurance law

April 2016 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 **two** main sources and **two** minor sources of English Law. (4)
- (b) State **three** legal principles derived from equity. (6)

2. Describe briefly the following institutions:
 - (a) The Law Commission. (5)
 - (b) The Council of the European Communities. (5)

3. Describe briefly the **two** types of corporation and state how **each** may be created. (10)

4. Outline the **five** elements which must be established by a claimant in order to succeed in an action for breach of statutory duty. (10)

5. ABF Contractors Ltd (ABF) accidentally cut through an electricity cable causing a loss of power to various premises resulting in them having to close for one day.
 - (a) Outline whether ABF are liable to the following claimants:
 - (i) The electricity company for damage to their cable. (2)
 - (ii) A supermarket for loss of revenue and the cost of paying staff for the day. (2)
 - (b) A restaurant claims for the loss of ruined food which was being cooked when the power was cut off, loss of profit on the meals that were being cooked at the time and loss of profit on bookings which were cancelled for that day.

Advise ABF on the extent of their liability to the restaurant referring to the leading case, in support of your answer. (6)

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6. (a) Explain briefly what is meant by the following:
- (i) Breach of contract by failure to perform. (3)
 - (ii) Anticipatory breach of contract. (3)
- (b) List **four** ways, other than by breach, in which a contract may be discharged. (4)
7. (a) Distinguish between misrepresentation and non-disclosure in the **general** law of contract. (4)
- (b) Outline **three** remedies that are available to a claimant who is the victim of misrepresentation in the **general** law of contract. (6)
8. State **five** remedies that may be available to the principal if an agent fails in his duties. (10)
9. (a) Distinguish briefly, in the context of the **general** law of contract, between an offer and an invitation to treat. (4)
- (b) State the essential terms of the contract that must be agreed for an insurance contract to be valid. (6)
10. Describe the circumstances and principle(s) of law illustrated by **one** of the following cases:
- Commercial Union v Hayden* (1977).
- OR**
- Great Northern Railway Co. v Swaffield* (1874). (10)

QUESTIONS CONTINUE OVER THE PAGE

11. David discovers that his wife is having an affair with John. David goes to John's house and they start fighting. John hits David over the head with a spade causing him serious injuries and is later convicted of criminal charges. David sues John and is awarded £25,000. John submits a claim under the personal liability section of his household insurance contract for this sum of money.

Advise John's insurers on their liability, referring to an example of relevant case law in support of your answer.

(10)

12. Explain how the the doctrine of privity of contract under common law has been modified by the main provisions of **one** of the following pieces of legislation:

Road Traffic Act 1988.

OR

Contracts (Rights of Third Parties) Act 1999.

(10)

13. (a) John's car is badly damaged when it is hit by a lorry. John's insurers, ABC, collect the car from his house saying that they will return it to him once the damage has been repaired. Three months later, John's car has still not been returned and he has run up large bills hiring cars during that period, which ABC decline to pay for.

Advise John briefly of any remedies he may have against ABC, outlining the legal principles involved.

(4)

- (b) John collects his car from the garage but the repairs have not been completed to a satisfactory standard. John successfully sues the negligent motorist for £500 and he uses this money to pay for the outstanding repairs. ABC write to John stating that he must repay this money to ABC.

Advise John as to his legal position referring to relevant case law in support of your answer.

(6)

14. (a) Distinguish briefly between indemnity and non-indemnity insurance contracts.

(6)

- (b) Explain briefly the operation of an excess clause under an insurance contract and its benefit to insurers.

(4)

Part II questions can be found on pages 8 and 9

PART II

Answer TWO of the following FOUR questions

Each question is worth 30 marks

15. (a) Mr and Mrs Smith insure their shop with ABC Insurance Company (ABC). Five months later the shop suffers fire damage and Mrs Smith submits a claim to the insurers for the cost of repairs. ABC investigates the claim and discovers that Mr Smith had been convicted of robbery 10 years ago. Mrs Smith states that ABC should pay the claim because her husband had not told her about his criminal conviction.
- Advise ABC on the extent of their liability, if any, referring to relevant case law in support of your answer. (20)
- (b) XYZ Building Society (XYZ) is also insured under the ABC insurance contract because Mr and Mrs Smith have a mortgage on the shop premises. XYZ also submit a claim to ABC for the cost of the repairs.
- Explain to ABC to what extent your advice would differ, if at all, referring to relevant case law in support of your answer. (10)
16. (a) State the **three** ways by which assignment of an insurance contract can occur. (3)
- (b) Explain which insurance contracts can be freely assigned. (8)
- (c) Caroline owes Paula £250,000. In order to settle the debt, Paula agrees to accept Caroline's car and her house. Caroline gives Paula the car and house keys. One week later, she also gives Paula the motor insurance contract and the household insurance contract, stating that both insurances are valid for another five months.
- (i) Advise Paula briefly as to whether she has acquired a good title to the house. (6)
- (ii) Explain the extent to which Paula can enforce the motor and household insurance contracts, referring to relevant statute and case law in support of your answer. (13)

- 17. (a)** The principles of subrogation and contribution are sometimes described as 'corollaries of the principle of indemnity'.
- Outline what is meant by this description and explain the objective which the law seeks to achieve in applying these principles. **(10)**
- (b)** Describe the circumstances, other than by market agreements, in which insurers may be prevented from exercising their rights of subrogation, referring to relevant case law in support of your answer. **(20)**
- 18. (a)** State **three** key elements of insurable interest. **(3)**
- (b)** Explain the point in time at which insurable interest must exist, citing statute law in support of your answer, in respect of:
- (i)** Marine cargo insurance. **(9)**
- (ii)** Property insurances. **(9)**
- (c)** Graham, a wealthy businessman, wishes to arrange the following insurance contracts in his own name. In each case, state whether the contract is likely to be valid, giving a reason for your answer.
- (i)** An insurance contract on the life of Mr Jones, a business associate and powerful political ally of Graham. Mr Jones is in favour of cutting taxes for very rich people. **(3)**
- (ii)** A comprehensive motor insurance contract on a car owned by his daughter. **(3)**
- (iii)** An insurance contract on the life of David, an elderly architect, whom Graham has engaged for one year to redesign his house. **(3)**

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