

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 examinations.

Summary of learning outcomes	Number of questions in the examination*
1. Understand the nature and sources of law and legal systems.	3
2. Understand the concept of legal personality.	2
3. Understand the principles of the law of tort and the characteristics of the main Torts.	4
4. Understand the law of contract.	4
5. Understand the law of agency and its application to insurance.	4
6. Understand the main principles governing the formation of insurance contracts.	9
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
8. Understand the main legal principles governing the making of an insurance claim.	6
9. Understand how losses are measured and how the principle of indemnity applies to insurance claims.	4
10. Understand how the principles of subrogation and contribution apply to insurance claims.	6

*The test specification (relevant to the M05 multiple choice question exam only) has an in-built element of flexibility. It is designed to be used as a guide for study and is not a statement of actual number of questions that will appear in every exam. However, the number of questions testing each learning outcome will generally be within the range plus or minus 2 of the number indicated.

Important notes

M05

- **Method of assessment**

Mixed assessment for M05 of which both elements must be individually passed. This consists of:

1. an online coursework assignment using RevisionMate consisting of 10 questions which sequentially follow the learning outcomes. This must be successfully completed within 6 months of enrolment; and
2. a multiple-choice question (MCQ) exam at one of the CII's online centres (paper based MCQs are available in April and October for those sitting outside the UK). The MCQ exam consists of 40 standard format and 10 multiple response questions. 1 hour is allowed for this examination. This exam must be successfully passed within 18 months of enrolment.

- This syllabus will be examined from 1 October 2016 until 30 April 2017.
- The changes in this syllabus relate to the Insurance Act 2015.
- Candidates will be examined on the basis of English law and practice unless otherwise stated.
- Candidates should refer to the CII website for the latest information on changes to law and practice and when they will be examined:
 1. Visit www.cii.co.uk/updates
 2. Select the appropriate qualification
 3. Select your unit on the right hand side of the page

P05

- **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.
- This syllabus is applicable to the October 2016 examination.
- The changes in this syllabus relate to the Insurance Act 2015.
- Candidates will be 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 website for the latest information on changes to law and practice and when they will be examined:
 1. Visit www.cii.co.uk/updates
 2. Select the appropriate qualification
 3. Select your unit on the right hand side of the page

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 classifications 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 two main 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 European 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 the characteristics of partnerships, the Crown and trade unions.	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, remedies and rules governing limitation of actions in tort.	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 and how an agency relationship can be created.	2
5.2 Explain the relationships between agents, principals and third parties.	2
5.3 Explain the nature of an agent's rights, responsibilities, authority and duties.	2
5.4 Explain the termination of agency and its effects.	2
5.5 Explain how the principles of agency law apply to insurance.	2
5.6 Apply the principles of agency law 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. 3
- 6.3 Explain the application of the law on insurable interest to the main classes of insurance and apply the law to problem situations. 3
- 6.4 Explain potential reform of the law relating to insurable interest. 2
- 6.5 Explain the doctrine of good faith. 3
- 6.6 Explain the duty of fair presentation in the context of non-consumer insurance and apply its principles to problem situations. 3
- 6.7 Explain breach of the duty of fair presentation in the context of non-consumer insurance and apply its principles to problem situations. 3
- 6.8 Explain the duty to take reasonable care not to make a misrepresentation in consumer insurance and apply its principles to problem situations. 3
- 6.9 Explain the breach of the duty to take reasonable care not to make a misrepresentation in consumer insurance consequences and remedies and apply this to problem situations. 3

7. Understand how the terms of insurance contracts are classified and the effect of a breach of an insurance contract term by the insured and of other vitiating factors

- 7.1 Explain the classification of insurance contract terms. 3
- 7.2 Explain the nature of warranties, conditions and other insurance contract terms and apply the law on these to problem situations. 3
- 7.3 Explain the effect of breach of warranty or condition and apply the law to problem situations. 3
- 7.4 Explain the effect of the regulatory rules on the law of warranties and conditions and apply the rules to problem situations. 3
- 7.5 Explain void and illegal insurance contracts and apply the law to problem situations. 3
- 7.6 Explain the distinction between joint and composite and apply the law to problem situations. 3

8. Understand the main legal principles governing the making of an insurance claim

- 8.1 Describe the parties who can claim on or benefit from an insurance contract and apply the law to problem situations. 3
- 8.2 Explain the rules governing notice and proof of loss and apply them to problem situations. 3
- 8.3 Explain the principles governing the construction of insurance contracts and apply them to problem situations. 3
- 8.4 Explain the doctrine of proximate cause. 3
- 8.5 Explain the doctrine of proximate cause in the context of 'chains of events', concurrent causes and efforts to avoid or reduce loss and apply the law to problem situations. 3

9. Understand how losses are measured and how the principle of indemnity applies to insurance claims

- 9.1 Explain the principle of indemnity. 3
- 9.2 Explain the measure of indemnity in various classes of insurance and apply the law and practice to problem situations. 3
- 9.3 Explain the factors which limit, reduce, extend or modify the principle of indemnity and apply the law and practice to problem situations. 3
- 9.4 Explain the methods of providing indemnity and apply the law and practice to problem situations. 3
- 9.5 Explain the doctrine of salvage and abandonment and apply the law and practice to problem situations. 3
- 9.6 Explain the effect of claim payments on policy cover and apply the law and practice to problem situations. 3

- 10. Understand how the principles of subrogation and contribution apply to insurance claims**
- 10.1 Explain the doctrine of subrogation as a corollary of principle of indemnity. 3**
- 10.2 Explain the source of subrogation rights and apply the law to problem situations. 3**
- 10.3 Explain abandonment and salvage and apply the law and practice to problem situations. 3**
- 10.4 Explain how subrogation rights may be modified or denied and apply the law and practice to problem situations. 3**
- 10.5 Explain the nature of double insurance and contribution and how contribution arises at common law. 3**
- 10.6 Explain the operation of contribution at common law and the effect of common contribution conditions. 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 and to problem situations. 3**
- 10.9 Explain the effect of market agreements on rights of contribution. 3**

Reading list

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

Note: The examination will test the syllabus alone.

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

The publications will help you keep up-to-date with developments and will provide a wider coverage of syllabus topics.

CII/PFS members can borrow most of the additional study materials below from Knowledge Services. CII study texts can be consulted from within the library.

New materials are added frequently - for information about new releases and lending service, please go to www.cii.co.uk/knowledge or email knowledge@cii.co.uk.

CII study texts

Insurance law. London: CII. Study text M05P05.

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

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. 2nd ed. Geoffrey Morse (ed). London: Sweet and Maxwell, 2011.

Smith and Keenan's English law: text and cases. Charles Wild and Stuart Weinstein. 17th ed. Harlow, England: Pearson Education, 2013.

Business law. Denis Keenan and Sarah Riches. 8th ed. Harlow: Pearson Longman, 2007.

Essential law for your business: a practical guide to all legal and financial requirements. Patricia Clayton. 13th ed. London: Kogan Page, 2009.

Principles of European Insurance contract law: a model optional instrument. Mandeep Lakhani, Helmut Heiss. Munich: Sellier European Law Publishers, 2011.*

Insurance theory and practice. Rob Thoyts. Routledge, 2010.*

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

Bird's modern insurance law. 9th ed. John Birds. Sweet and Maxwell, 2013.

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

The modern law of insurance. Andrew McGee. LexisNexis, 2011.

MacGillivray on insurance law: relating to all risks other than marine. 13th ed. London: Sweet & Maxwell, 2015.

Colinvaux's law of insurance. 10th ed. London: Sweet & Maxwell, 2014.

Insurance and reinsurance law review. Peter Rogan. Law Business Review, 2012.

Insurance law: text and materials. Ray Hodgkin. 2nd ed. London: Cavendish, 2002.

Insurance and the law of obligations. Robert M. Merkin, Jenny Steele. Oxford: Oxford University Press, 2013.*

Claims handling law and practice. Richard West et al. London: Witherby, 2008.

Insurance claims. 3rd ed. Alison Padfield. Bloomsbury Professional, 2012.

Tort law: text, cases and materials. Jenny Steele. 3rd ed. Oxford: Oxford University Press, 2014.

Casebook on torts. Richard Kidner. 12th ed. Oxford: Oxford University Press, 2012.

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.

Ebooks

The following ebooks are available through Discovery via www.cii.co.uk/discovery (CII/PFS members only):

Business law. David Kelly, Ruby Hammer, John Hendy. Taylor and Francis, 2014.

Research handbook on international insurance law and regulation. Julian Burling, Kevin Lazarus (eds.). Edward Elgar Publishing, 2011.*

Tort law and the Legislature: common law, statute and the dynamics of legal change. Jenny Steel, et al. Oxford: Hart Publishing, 2013.

Tort law: challenging orthodoxy. Erika Chamberlain, et al. Oxford: Hart Publishing, 2013.

Tort law defences. James Goudkamp. Oxford: Hart Publishing, 2013.

Factfiles

CII factfiles are concise, easy to digest but technically dense resources designed to enrich the knowledge of members. Covering general insurance, life and pensions and financial services sectors, the factfile collection includes key industry topics as well as less familiar or specialist areas with information drawn together in a way not readily available elsewhere. Available online via www.cii.co.uk/ciifactfiles (CII/PFS members only).

- Recent developments in tort. Alan Peck.
- Civil procedure rules. Alan Peck.
- The regulation of general insurance business. Ian Youngman.

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 (CII/PFS members only).

Journals and magazines

The Journal. London: CII. Six issues a year. Also available online via www.cii.co.uk/knowledge (CII/PFS members only).

Post magazine. London: Incisive Financial Publishing. Weekly. Also available online at www.postonline.co.uk.

Insurance law monthly. London: Informa. Monthly.

Reference materials

Dictionary of insurance. C Bennett. 2nd ed. London: Pearson Education, 2004.

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

Concise encyclopedia of insurance terms. Laurence S. Silver, et al. New York: Routledge, 2010.*

* Also available as an ebook through Discovery via www.cii.co.uk/discovery (CII/PFS members only).

M05

Examination guides

An examination guide, which includes a specimen paper, is available to purchase via www.cii.co.uk.

If you have a current study text enrolment, the current examination guide is included and is accessible via Revisionmate (www.revisionmate.com). Details of how to access Revisionmate are on the first page of your study text.

It is recommended that you only study from the most recent versions of the examination guides.

P05

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 from 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.

Alternatively, if you have a current study text enrolment, the latest exam guides are available via www.revisionmate.com.

Older guides are available via www.cii.co.uk/pastexamguides (CII/PFS members only).

Exam technique/study skills

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

The Insurance Institute of London holds a lecture on revision techniques for CII exams approximately three times a year. The slides from their most recent lectures can be found at www.cii.co.uk/iilrevision (CII/PFS members only).