

P05

Diploma in Insurance

Unit P05 – Insurance law

October 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. Explain what is meant by the following terms:
 - (a) Judicial precedent. (3)
 - (b) Ratio decidendi. (4)
 - (c) Obiter dicta. (3)

2.
 - (a) Identify **two** of the most important forms of delegated legislation. (2)
 - (b) Outline briefly **two** advantages and **one** disadvantage of delegated legislation. (6)
 - (c) Identify the **two** ways in which control is exercised over delegated legislation. (2)

3.
 - (a) Graham enters into a contract with ABC Ltd (ABC) to purchase new office equipment without telling his business partner, Jack. ABC submits their invoice but Jack refuses to pay ABC, stating he is not bound by the contract and the partnership does not have sufficient money to pay it. ABC sues Jack for the cost of the equipment.

Explain whether Jack has a legal liability for the debt. (6)
 - (b) Andrew, a member of a local football club, enters into a contract to buy new goal posts for the club. He gives the invoice to the committee who refuse to reimburse him.

Explain briefly whether the club is legally bound by the contract. (4)

4.
 - (a) Explain what is meant by the 'neighbour principle' (or 'neighbour test') in the context of the law of negligence. (7)
 - (b) List **three** general defences which apply in the law of tort. (3)

5. (a) Describe briefly the two forms which the tort of private nuisance can take and give **one** example of **each**. (6)
- (b) XYZ Ltd (XYZ) has operated a factory for 30 years at the same premises. Karen purchases the adjoining land and builds a property from which she runs a beauty salon. Karen sues XYZ claiming that the noise from the factory is affecting her business.
- Advise XYZ of their legal position, referring to case law in support of your answer. (4)
6. (a) List the **three** ways in which an offer to form a valid contract can be made in the general law of contract. (3)
- (b) (i) State what is meant by the term 'unilateral contract' in the general law of contract. (2)
- (ii) Identify the leading case on unilateral contracts and describe the circumstances of this case. (5)
7. (a) Explain what is meant by the term 'frustration' in the law of contract and outline what effect the doctrine of frustration has on a contract. (6)
- (b) State **two** rules of the Law Reform (Frustrated Contracts) Act 1943 which apply when a contract is discharged in frustration. (4)
8. Describe the circumstances and principle(s) of law illustrated by **one** of the following cases:
- Central London Property Trust v High Trees House (1947).*
- OR**
- Leyland Shipping v Norwich Union Fire Insurance Society Ltd (1918).* (10)
9. Outline **five** ways in which an insurance contract differs from a wagering (gambling) contract. (10)

QUESTIONS CONTINUE OVER THE PAGE

10. (a) (i) List **three** ways in which the relationship of principal and agent may arise. (3)
- (ii) State **three** ways in which the agent loses the right to indemnity for expenses incurred on the principal's behalf. (3)
- (b) State **two** circumstances described in the guidance to the Consumer Insurance (Disclosure and Representations) Act 2012 which confirm that the agent is acting for the consumer. (4)
11. (a) State **three** reasons an insurance contract might be void. (3)
- (b) Brian purchases a watch for his wife whilst on a business trip abroad. However, he does not pay the import taxes that were due when he arrived back in the United Kingdom. He discovers the watch is missing and submits a claim to his travel insurers who decline to pay the claim.
- Advise Brian of his legal position referring to **one** case in your answer. (7)
12. Identify and explain the method of contribution generally used in the following classes of insurance:
- (a) Property insurance. (5)
- (b) Liability insurance. (5)
13. Explain the main provisions of **one** of the following pieces of legislation:
- Fires Prevention (Metropolis) Act 1774.
- OR**
- Law of Property Act 1925. (10)
14. Explain how the doctrine of 'remoteness of damage' applies in the general law of contract, referring to **one** example of case law in support of your answer. (10)

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) State **four** essential elements, other than consideration, required for a valid insurance contract. (4)
- (b) (i) Explain briefly what is meant by the term 'consideration' and outline how the rules of consideration apply to insurance contracts. (8)
- (ii) State **four** ways in which a total failure of consideration may arise in respect of insurance contracts. (8)
- (c) Outline how **each** of the following exceptions to the doctrine of privity of contract apply in the case of insurance contracts:
- (i) Agency. (4)
- (ii) Additional insureds. (6)
16. (a) State the statutory definition of a 'material fact' under Section 18(2) of the Marine Insurance Act 1906. (4)
- (b) Outline briefly when the duty of disclosure operates in connection with a non-consumer insurance contract, referring to common law and the Insurance Act 2015 in support of your answer. (10)
- (c) (i) Explain briefly what is meant by the term 'qualifying breach' in relation to a non-consumer insurance contract and state the remedies now available to insurers as a result of the Insurance Act 2015. (10)
- (ii) List **three** remedies available to insurers in respect of fraudulent claims as a result of the Insurance Act 2015. (6)

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17. (a) Outline the normal basis of indemnity in **each** of the following types of commercial property insurance:
- (i) Buildings. (3)
 - (ii) Machinery and equipment. (3)
 - (iii) Manufacturers' stock. (3)
- (b) Explain how the principle of 'average' applies to an insurance contract and outline how it affects the settlement of a valid claim. (12)
- (c) Explain the effect of a total loss of the subject matter on an insurance contract. (9)
18. (a) Define the term 'subrogation' in the context of insurance. (4)
- (b) Outline **three** circumstances in which the right of subrogation can arise in contract and **two** circumstances in which it can arise in tort. (10)
- (c) Explain the effect of the decision in *Napier v Hunter* (1993) on the doctrine of subrogation. (8)
- (d) John signs a contract agreeing to sell his house to Brian for a sum of £100,000. The property suffers fire damage before completion of the sale and John successfully claims £5,000 from his insurers, ABC, for the cost of repairs. Brian completes the purchase of the property and pays John the full price even though repairs have not been carried out.
- Advise ABC of their legal position referring to the leading case in support of your answer. (8)

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