

**OBJECTIVES:** To provide a knowledge of the ways in which liability arises, the duty of care owed, the effect of a breach of that duty and the resultant damages and to give an understanding of the purpose and effect of the relevant legislation, enabling the application of such knowledge to the practice of liability insurance.

	Knowledge rating		
<b>LEGAL PRINCIPLES</b>			
Main sources of law including legislation and precedent.	3	Specific limitation periods and their operation.	3
Classification of law.	3	General principles of the law of defamation.	2
Civil justice reforms.	3	Categories of defamation.	1
Interface between European and national law.	2	Bases of liability for libel and slander.	1
Law of tort.	3	Defences to an action for defamation.	1
Classification of torts.	3	Rehabilitation of Offenders Act 1974 in relation to defamation.	1
Differences between contract and tort.	3	Remedies and damages.	2
Concept of fault.	3	Assessment of damages in fatal claims: Fatal Accidents Act 1976 as amended by the Administration of Justice Act 1982, Law Reform (Miscellaneous Provisions) Act 1934.	3
Concept of strict liability.	3		
Concept of causation.	3	<b>UNDERWRITING PRINCIPLES AND PROCEDURES</b>	
Competing causes/conditions and <i>novus actus interveniens</i> .	3	Risk assessment and underwriting principles.	3
Remoteness of damage.	3	Risk management principles.	3
Main defences to an action in tort.	3	Description of the business and its activities.	3
Principle of contributory negligence.	3	Premium bases and rating of the risk.	3
Definitions of negligence.	3	Indemnity limits and the effect on premiums.	3
Essential elements of negligence: duty of care, breach and damage.	3	Importance of claims experience and assessment of outstanding claims.	3
Onus of proof in negligence, including <i>res ipsa loquitur</i> .	2	Special factors relating to liability business including 'long tail' risks, the nature of disease claims and development of claims experience (triangulation).	3
Strict liabilities at common law and under statute including:	2	Basis of cover—claims made and claims occurring.	3
—rule in <i>Rylands v. Fletcher</i> .	2	Underwriting of excess of loss policies.	2
—liability of bailees, common carriers, hotel-keepers and liability for animals.	2	Difference in conditions/difference in limits contrasted with follow form.	2
Breach of statutory duty.	2	Third Non-Life Directive/freedom of services.	2
Essential elements for breach of statutory duty.	3		
Defences to breach of statutory duty.	2	<b>EMPLOYERS' LIABILITY</b>	
Private and public nuisance.	2	Employers' Liability (Compulsory Insurance) Act 1969.	3
Statutory nuisance.	2	Employers' Liability (Compulsory Insurance) Regulations 1998.	3
Trespass to person, to land and to goods.	1	Definition of an employee.	3
Principles of vicarious liability.	3	Health and safety legislation.	3
Categories of vicarious liability, particularly employer/employee, principal/agent and principal/independent contractor.	3	Hazards of particular occupations, including general hazards, plant and equipment hazards and industrial diseases.	2
Law relating to joint tortfeasors.	1	Scope of policy wording including terms, conditions and exclusions.	3
Civil Liability (Contribution) Act 1978.	1	Obligation on the insurer to pay out.	2
Occupier's liability.	3	Policy limits.	2
Principles of contractual liability.	3	Legal costs.	2
Unfair Contract Terms Act 1977 and Unfair Terms in Consumer Contracts Regulations 1994.	3	Transfer of Undertakings (Protection of Employment) Regulations.	2
Contracts (Applicable Law) Act 1990.	2	UK employees working overseas.	1
Third Parties (Rights Against Insurers) Act 1930.	2	International risks—workmen's compensation.	1
Hold harmless and waiver of subrogation.	2		
Indemnity to vendor/liability assumed by agreement.	2		
Limitation of actions in contract and tort.	3		

## PUBLIC AND PRODUCTS LIABILITY

UK and EC legislation on the sale of goods and defective products and the health and safety of the public.	3
Hazards of particular occupations and activities.	2
General hazards, property, plant and equipment hazards, industrial diseases and design risks.	3
Main factors to be considered including product safety, design controls, record keeping, packaging, instructions and labels.	2
Hazards arising from advice and design.	2
Scope of policy wording including terms, conditions and exclusions.	3
Policy limits.	2
Legal costs.	2
Treatment of pollution risks within the policy wording.	2
International risks.	2
Admitted and non-admitted policies.	2

## OTHER THIRD PARTY LIABILITY COVERS

Product guarantee policies, including product recall and product replacement.	2
Financial loss policy covers.	2
Directors' and officers' liability including the scope of policy wordings.	3
Professional indemnity policies including the scope of policy wordings.	3

## Knowledge ratings

Each sub-topic has been designated a numerical rating as follows:

- 1 General background awareness necessary.
- 2 Requires a knowledge of the major elements of procedures or concepts and their uses.
- 3 Requires the ability to evaluate concepts, issues, policies and procedures, together with an understanding of associated aspects of these items and their application to various situations.

## Study materials

The following list provides details of various publications which may assist with your studies. The primary text for this syllabus is shown in bold type. Periodicals and publications listed as additional reading will be of value in ensuring candidates keep up to date with developments and in providing a wider coverage of syllabus topics. The reference materials cited are authoritative, detailed works which should be used selectively as and when required.

Most of these additional study materials can be borrowed or purchased from the CII library.

### Primary text

Coursebook 755: **Liability insurance**. The Chartered Insurance Institute.

### Additional reading

*Smith & Keenans's English law*. Dennis Keenan. 11th revised edition. London: Pitman, 1995.

*Tort in a nutshell*. Ralph Tiernan. 4th edition. London: Sweet & Maxwell, 1996.

*Charlesworth & Percy on negligence*. R. A. Percy & C. T. Walton. 9th edition. London: Sweet & Maxwell, 1997.

*Employers' liability and industrial diseases*. Fred Collins. London: Thorogood, 1995.

*The handbook of health and safety practice*. Jeremy W Stranks. 3rd edition. London: Pitman, 1994.

*Essentials of health and safety at work*. Health & Safety Executive. Revised edition. London: HMSO, 1992.

*Product liability: law and insurance*. Mark Mildred (ed). London: Lloyd's of London Press, 1994.

*Professional indemnity insurance law*. W. I. B. Enright. London: Sweet & Maxwell, 1996.

*Directors' and officers' liability insurance: a guide to international practice*. Ian Youngman. Cambridge: Woodhead, 1995.

*Contractors' all risks insurance*. Frank Eaglestone. London: Chartered Institute of Loss Adjusters, 1993.

*Economic loss*. Robby Bernstein. London: Longman, 1993.

### Reference materials

*Introduction to public liability policies*. J. P. P. Shaw, R. M. Walmsley (ed). Kingston upon Thames: Croner, 1990.

### Periodicals

*The Journal*. London: The Chartered Insurance Institute. Six issues a year.

*Post Magazine*. London: Timothy Benn Publishing. Weekly.

*Liability, risk and insurance*. London: Lloyd's of London Press, 1990. Monthly.

*Insurance Day*. London: Lloyd's of London Press.