

# 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 that the candidate has knowledge of the fundamental principles 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 English law and the concept of natural legal persons.	5
2. Understand the principles of the law of torts and the characteristics of the main torts.	4
3. Understand the law of contract.	4
4. Understand the law of agency and its application to insurance.	4
5. Understand the main principles governing the formation of insurance contracts.	9
6. Understand the classification and interpretation of insurance contract terms, the effects of their breach and other vitiating factors.	8
7. Understand the main legal principles governing the making of an insurance claim.	6
8. Understand how losses are measured and how the principle of indemnity applies to insurance claims.	4
9. Understand how the principles of subrogation and contribution apply to insurance claims.	6

\* The test specification 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

- Method of assessment:

Mixed assessment consisting of two components, both of which must be passed. One component is a coursework assignment and one is a multiple choice question (MCQ) examination. The details are:

  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. an MCQ exam consisting of 40 standard format and 10 multiple response questions. 1 hour is allowed for this exam. This exam must be successfully passed within 18 months of enrolment.
- This syllabus will be examined from 1 May 2021 until 30 April 2022.
- 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/qualifications](http://www.cii.co.uk/qualifications)
  2. Select the appropriate qualification
  3. Select your unit from the list provided
  4. Select qualification update on the right hand side of the page

## **1. Understand the nature and sources of English law and the concept of natural legal persons.**

- 1.1 Describe the classifications and characteristics of English law.
- 1.2 Describe the sources of English law.
- 1.3 Describe the professions involved within English law.
- 1.4 Describe the structures and procedures of the courts.
- 1.5 Describe the status and capacity of natural legal persons and corporations.
- 1.6 Apply the nature and sources of English law and the concept of natural legal persons to practical situations.

## **2. Understand the principles of the law of torts and the characteristics of the main torts.**

- 2.1 Describe the nature and classification of torts.
- 2.2 Explain the main torts.
- 2.3 Explain how the law of torts apply to employers' liability, products liability and occupiers' liability.
- 2.4 Explain the main defences, remedies and limitations of actions in tort.
- 2.5 Apply the law of tort to practical situations.

## **3. Understand the law of contract.**

- 3.1 Explain the nature of contractual liability and classification of contracts.
- 3.2 Explain the formation of a contract.
- 3.3 Explain how contract terms are classified under the general law.
- 3.4 Explain defective contracts.
- 3.5 Explain the circumstances in which a contract may be discharged.
- 3.6 Explain the remedies for breach of contract.
- 3.7 Explain the doctrine of privity of contract.
- 3.8 Explain the assignment of contractual rights and duties and how it applies to insurance.
- 3.9 Apply the law of contract to practical situations.

## **4. Understand the law of agency and its application to insurance.**

- 4.1 Explain the nature of agency and how an agency relationship can be created.
- 4.2 Explain the nature of an agent's rights, responsibilities, authority and duties.
- 4.3 Explain the termination of agency and its effects.
- 4.4 Explain how the principles of agency law apply to insurance and practical situations.

## **5. Understand the main principles governing the formation of insurance contracts.**

- 5.1 Explain how the principles of contract law apply to the formation of insurance contracts.
- 5.2 Explain the concept and key elements of insurable interest.

- 5.3 Explain how the law of insurable interest applies to the main classes of insurance.
- 5.4 Explain the duty of fair presentation in non-consumer insurance and the effect of a breach.
- 5.5 Explain the duty to take reasonable care not to make a misrepresentation in consumer insurance and the effects of a breach.
- 5.6 Apply the main principles governing the formation of insurance contracts to practical situations.

## **6. Understand the classification and interpretation of insurance contract terms, the effects of their breach and other vitiating factors.**

- 6.1 Explain the classification, formation and interpretation of insurance contract terms.
- 6.2 Explain the effect of breach of warranty or condition and how illegality arises in insurance contracts.
- 6.3 Apply the classification and interpretation of insurance contract terms to practical situations.

## **7. Understand the main legal principles governing the making of an insurance claim.**

- 7.1 Describe the parties who can claim on or benefit from an insurance contract.
- 7.2 Explain the rules governing notice and proof of loss.
- 7.3 Explain the insured's contractual duty to mitigate or prevent an insured loss.
- 7.4 Explain the doctrine of proximate cause.
- 7.5 Explain the investigation of fraudulent claims and the remedies available to the insurer.
- 7.6 Apply the main legal principles governing the making of an insurance claim to practical situations.

## **8. Understand how losses are measured and how the principle of indemnity applies to insurance claims.**

- 8.1 Explain the principle of indemnity.
- 8.2 Explain the measure of indemnity in various classes of insurance.
- 8.3 Explain the factors which limit, reduce, extend or modify the principle of indemnity.
- 8.4 Explain the methods of providing indemnity.
- 8.5 Explain the doctrine of salvage and abandonment.
- 8.6 Explain the effect of claim payments on policy cover.
- 8.7 Apply how losses are measured and the principle of indemnity to practical situations.

## **9. Understand how the principles of subrogation and contribution apply to insurance claims.**

- 9.1 Explain the doctrine of subrogation in insurance.
- 9.2 Explain the source of subrogation rights and apply the law to practical situations.
- 9.3 Explain how subrogation rights may be modified or denied and apply the law to practical situations.
- 9.4 Explain the effect of market agreements on rights of contribution.

- 9.5 Explain the nature of double insurance and operation of contribution.
- 9.6 Apply the principle of contribution to the main lines of insurance and to practical situations.

## Reading list

The following list provides details of further reading 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 resources listed here will help you keep up-to-date with developments and provide a wider coverage of syllabus topics.

### CII study texts

Insurance law. London: CII. Study text M05.

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

### Books (and ebooks)

Bird's modern insurance law. 10<sup>th</sup> ed. John Birds. Sweet and Maxwell, 2016.

Colinvaux's law of insurance. 11<sup>th</sup> ed. London: Sweet & Maxwell, 2016.

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

Insurance claims. 4th ed. Alison Padfield. Bloomsbury Professional, 2016.

Insurance theory and practice. Rob Thoys. Routledge, 2010.\*

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

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

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

Tort law and liability insurance. Gerhard Wagner. Wien: Springer, 2005.

### Factfiles

CII fact files are concise, easy to digest but technically dense resources designed to enrich the knowledge of members. Written by subject experts and practitioners, the fact files cover key industry topics as well as less familiar or specialist areas of general insurance, life, and pensions and financial services, with information drawn together in a way not readily available elsewhere.

Available online via [www.cii.co.uk/ciifactfiles](http://www.cii.co.uk/ciifactfiles) (CII/PFS members only).

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\* Also available as an ebook through eLibrary via [www.cii.co.uk/eLibrary](http://www.cii.co.uk/eLibrary) (CII/PFS members only).

The Insurance Institute of London (IIL) podcast lecture series features leading industry figures and subject experts speaking on current issues and trends impacting insurance and financial services. Available online at [www.cii.co.uk/insurance-institute-of-london/](http://www.cii.co.uk/insurance-institute-of-london/) (CII/PFS members only).

Recent developments in tort I and II. Alan Peck.

Civil procedure rules. Alan Peck.

The regulatory framework. Simon Collins.

### **Journals and magazines**

The Journal. London: CII. Six issues a year.

Post magazine. London: Incisive Financial Publishing. Monthly. Contents searchable online at [www.postonline.co.uk](http://www.postonline.co.uk).

Insurance law monthly. London: Informa. Monthly.

### **Reference materials**

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. \*

i-law: online database of insurance legal knowledge. Informa. Available online via [www.cii.co.uk/insurance-law-database-i-law/](http://www.cii.co.uk/insurance-law-database-i-law/) (CII/PFS members only).

### **Exemplars**

Exemplar papers are available for all mixed assessment units. Exemplars are available for both the coursework component and the MCQ exam component.

These are available on the CII website under the unit number before purchasing the unit. They are available under the following link [www.cii.co.uk/qualifications/diploma-in-insurance-qualification](http://www.cii.co.uk/qualifications/diploma-in-insurance-qualification).

These exemplar papers are also available on the RevisionMate website ([www.revisionmate.com](http://www.revisionmate.com)) after you have purchased the unit.

### **Exam technique/study skills**

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