

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

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

Important notes

- **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.
- The syllabus is 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/qualifications
 - 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		4. Understand the law of contract	
1.1 Describe the classifications of law and the main branches of public and private law.	1	4.1 Explain the nature of contractual liability and classification of contracts.	2
1.2 Describe the characteristics of English law and the UK legal system.	1	4.2 Explain the rules governing the formation of a contract.	2
1.3 Describe the development of common law and of equity.	1	4.3 Explain how contract terms are classified under the general law.	2
1.4 Describe the two main sources of law: legislation and judicial precedent (case law).	1	4.4 Explain elements which affect the validity of contracts.	2
1.5 Outline the minor sources of law.	1	4.5 Explain the circumstances in which a contract may be discharged.	2
1.6 Describe delegated legislation and statutory interpretation.	1	4.6 Explain remedies for breach of contract.	2
1.7 Describe the effect of supra-national legislation, such as European law, on national systems.	1	4.7 Explain the doctrine of privity of contract and the effect of the Contracts (Rights of Third Parties) Act 1999.	2
1.8 Describe the structure of the courts, the judiciary and the system of precedent.	1	4.8 Explain the assignment of contractual rights and duties.	2
1.9 Describe the elements of civil procedure and methods for the funding of litigation.	1	4.9 Explain assignment in the context of insurance and apply this to problem situations.	3
2. Understand the concept of legal personality		5. Understand the law of agency and its application to insurance	
2.1 Describe the status and capacity of natural legal persons and corporations.	1	5.1 Explain the nature of agency and how an agency relationship can be created.	2
2.2 Describe the main types of corporation and their characteristics.	1	5.2 Explain the relationships between agents, principals and third parties.	2
2.3 Describe unincorporated associations and their characteristics.	1	5.3 Explain the nature of an agent's rights, responsibilities, authority and duties.	2
2.4 Describe the characteristics of partnerships, the Crown and trade unions.	1	5.4 Explain the termination of agency and its effects.	2
3. Understand the principles of the law of tort and the characteristics of the main torts		5.5 Explain how the principles of agency law apply to insurance.	3
3.1 Describe the nature and classification of torts.	1	5.6 Apply the principles of agency law to problem situations.	3
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	6. Understand the main principles governing the formation of insurance contracts	
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	6.1 Explain how the general principles of contract law apply to insurance.	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	6.2 Explain the concept and nature of insurable interest.	3
3.5 Explain the main defences, remedies and rules governing limitation of actions in tort.	2	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 utmost good faith.	3
		6.6 Explain misrepresentation in the context of insurance and apply its principles to problem situations.	3

6.7	Explain the duty of disclosure in the context of insurance and apply its principles to problem situations.	3	9.	Understand how losses are measured and how the principle of indemnity applies to insurance claims	
6.8	Explain the Breach of good faith by the insured or the insurer: consequences and remedies and apply this to problem situations.	3	9.1	Explain the principle of indemnity.	3
6.9	Explain the effect of the Financial Conduct Authority (FCA) Insurance Conduct of Business (ICOB) rules on the doctrine of utmost good faith and apply this to problem situations.	3	9.2	Explain the measure of indemnity in various classes of insurance and apply the law and practice to problem situations.	3
6.10	Explain the main areas of reform implemented by the Consumer Insurance (Disclosure and Representations) Act 2012.	2	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
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		9.4	Explain the methods of providing indemnity and apply the law and practice to problem situations.	3
7.1	Explain the classification of insurance contract terms.	3	9.5	Explain the doctrine of salvage and abandonment and apply the law and practice to problem situations.	3
7.2	Explain the nature of warranties, conditions and other insurance contract terms and apply the law on these 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
7.3	Explain the effect of breach of warranty or condition and apply the law to problem situations.	3	10.	Understand how the principles of subrogation and contribution apply to insurance claims	
7.4	Explain the effect of the regulatory rules on the law of warranties and conditions and apply the rules to problem situations.	3	10.1	Explain the doctrine of subrogation as a corollary of principle of indemnity.	3
7.5	Explain potential reform of the law of warranties and conditions.	2	10.2	Explain the source of subrogation rights and apply the law to problem situations.	3
7.6	Explain void and illegal insurance contracts and apply the law to problem situations.	3	10.3	Explain abandonment and salvage and apply the law and practice to problem situations.	3
7.7	Explain the distinction between joint and composite and apply the law 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
8.	Understand the main legal principles governing the making of an insurance claim		10.5	Explain the nature of double insurance and contribution and how contribution arises at common law.	3
8.1	Describe the parties who can claim on or benefit from an insurance contract and apply the law to problem situations.	3	10.6	Explain the operation of contribution at common law and the effect of common contribution conditions.	3
8.2	Explain the rules governing notice and proof of loss and apply them to problem situations.	3	10.7	Explain methods of ascertaining the ratio of contribution.	3
8.3	Explain the principles governing the construction of insurance contracts and apply them to problem situations.	3	10.8	Apply the principle of contribution to the main lines of insurance and to problem situations.	3
8.4	Explain the doctrine of proximate cause.	3	10.9	Explain the effect of market agreements on rights of contribution.	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			

Reading list

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

These will help candidates keep up-to-date with developments and will provide a wider coverage of syllabus topics.

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

CII/Personal Finance Society members can borrow most of the additional study materials below from Knowledge Services.

CII study texts can be consulted from within the library. For further information on the lending service, please go to www.cii.co.uk/knowledge.

CII study texts

Insurance law. London: CII. Study text P05

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

Additional reading

Additional reading materials are available through the library or on the Knowledge Services website.

New materials are added frequently – for information about new books and articles in your area of interest, please visit www.cii.co.uk/knowledge or email knowledge@cii.co.uk.

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

Smith and Keenan's English law: text and cases. Dennis Keenan. 16th ed. Harlow, England: Pearson Education, 2010.

Business law. Denis Keenan and Sarah Riches. 8th ed. Harlow : Pearson Longman, 2007. Also available as an ebook via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

Essential law for your business: a practical guide to all legal and financial requirements. 13th ed. Patricia Clayton. Kogan Page, 2009. Also available as an ebook via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

Principles of European Insurance contract law: a model optional instrument. Sellier European Law Publishers, 2011. Also available as an ebook via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

Insurance theory and practice. Rob Thoyts. Routledge, 2010. Also available as an ebook via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

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

Birds' modern insurance law. John Birds. 9th ed. London: Sweet & Maxwell, 2013.

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

The modern law of insurance. Andrew McGee. 3rd ed. London: LexisNexis, 2011.

MacGillivray on insurance law: relating to all risks other than marine. 12th ed. London: Sweet & Maxwell, 2012.

Colinvaux's law of insurance. 9th ed. London: Sweet & Maxwell, 2010.

Insurance law: text and materials. Ray Hodgkin. 2nd ed. London: Cavendish, 2002. Also available as an ebook via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

Claims handling law and practice: a practitioner's guide. Richard West et al. London: Witherby, 2008.

Insurance claims. Alison Padfield. 2nd ed. Haywards Heath, West Sussex: Tottel, 2007.

Tort law: text, cases and materials. Jenny Steele. 2nd ed. Oxford: Oxford University Press, 2010.

Casebook on torts. Richard Kidner. 11th ed. Oxford: Oxford University Press, 2010.

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.

Factfiles and other online resources

CII factfiles are written by subject matter experts within the insurance and financial services industry. They are updated annually, and interim update bulletins are included where necessary to take into account any major changes during the year. All are available online via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

- The Financial Ombudsman Service and general insurance. Peter Tyldesley, Saira Paruk.
- Recent developments in tort. Alan Peck.
- Civil Procedure rules. Alan Peck.
- The regulation of general insurance business. Ian Youngman.
- The regulation of general insurance and protection business. Ian Youngman.
- Recent developments in insurance law. Robert Merkin, updated by Samantha James.

Contracts for Difference. iMinds. Mosman : iMinds, 2009. [Introductory text, 2 pp.] Available online via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

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 and Personal Finance Society members only).

Journals and magazines

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

Post Magazine. London: Incisive Financial Publishing. Weekly.

Insurance law monthly. London: Informa. Monthly.

Legal digest. DAC Beachcroft. Monthly. Available online via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

Reference materials

Dictionary of insurance. C Bennett. 2nd ed. London: Pearson Education, 2004. Also available as an ebook via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

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

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 for 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.

Older examination guides are available (for members only) via www.cii.co.uk/knowledge. Alternatively, if you have a current study text enrolment, the latest exam guides are available via www.revisionmate.com.

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/knowledge/iilrevision (CII/Personal Finance Society members only).