

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 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 contracts 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 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 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. 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 May 2017 until 30 April 2018.
 - 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

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.
- 1.2 Describe the characteristics of English law and the UK legal system.
- 1.3 Describe the development of common law and of equity.
- 1.4 Describe the two main sources of law: legislation and judicial precedent (case law).
- 1.5 Outline the minor sources of law.
- 1.6 Describe delegated legislation and statutory interpretation.
- 1.7 Describe the effect of supra-national legislation, such as European law, on national systems.
- 1.8 Describe the structure of the courts, the judiciary and the system of precedent.
- 1.9 Describe the elements of civil procedure and methods for the funding of litigation.

2. Understand the concept of legal personality

- 2.1 Describe the status and capacity of natural legal persons and corporations.
- 2.2 Describe the main types of corporation and their characteristics.
- 2.3 Describe unincorporated associations and their characteristics.
- 2.4 Describe the characteristics of partnerships, the Crown and trade unions.

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.
- 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.
- 3.3 Explain general characteristics of the other main torts: trespass, nuisance, the rule in *Rylands v. Fletcher*, breach of statutory duty and defamation.
- 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.
- 3.5 Explain the main defences, remedies and rules governing limitation of actions in tort.

4. Understand the law of contract

- 4.1 Explain the nature of contractual liability and classification of contracts.
- 4.2 Explain the rules governing the formation of a contract.
- 4.3 Explain how contract terms are classified under the general law.
- 4.4 Explain elements which affect the validity of contracts.
- 4.5 Explain the circumstances in which a contract may be discharged.
- 4.6 Explain remedies for breach of contract.
- 4.7 Explain the doctrine of privity of contract and the effect of the Contracts (Rights of Third Parties) Act 1999.
- 4.8 Explain the assignment of contractual rights and duties.
- 4.9 Explain assignment in the context of insurance and apply this to problem situations.

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.
- 5.2 Explain the relationships between agents, principals and third parties.
- 5.3 Explain the nature of an agent's rights, responsibilities, authority and duties.
- 5.4 Explain the termination of agency and its effects.
- 5.5 Explain how the principles of agency law apply to insurance.
- 5.6 Apply the principles of agency law to problem situations.

6. Understand the main principles governing the formation of insurance contracts

- 6.1 Explain how the general principles of contract law apply to insurance.
- 6.2 Explain the concept and nature of insurable interest.
- 6.3 Explain the application of the law on insurable interest to the main classes of insurance and apply the law to problem situations.
- 6.4 Explain potential reform of the law relating to insurable interest.
- 6.5 Explain the doctrine of good faith.
- 6.6 Explain the duty of fair presentation in the context of non-consumer insurance and apply its principles to problem situations.
- 6.7 Explain breach of the duty of fair presentation in the context of non-consumer insurance and apply its principles to problem situations.
- 6.8 Explain the duty to take reasonable care not to make a misrepresentation in consumer insurance and apply its principles to problem situations.
- 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.

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

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.
- 8.2 Explain the rules governing notice and proof of loss and apply them to problem situations.
- 8.3 Explain the principles governing the construction of insurance contracts and apply them to problem situations.
- 8.4 Explain the doctrine of proximate cause.
- 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.

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

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

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.
- 10.2 Explain the source of subrogation rights and apply the law to problem situations.
- 10.3 Explain abandonment and salvage and apply the law and practice to problem situations.
- 10.4 Explain how subrogation rights may be modified or denied and apply the law and practice to problem situations.
- 10.5 Explain the nature of double insurance and contribution and how contribution arises at common law.
- 10.6 Explain the operation of contribution at common law and the effect of common contribution conditions.
- 10.7 Explain methods of ascertaining the ratio of contribution.
- 10.8 Apply the principle of contribution to the main lines of insurance and to problem situations.
- 10.9 Explain the effect of market agreements on rights of contribution.

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 Mo5.

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

Books (and ebooks)

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

Causation in insurance contract law. Meixian Song. Abingdon: Informa Law from Routledge, 2014.*

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

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

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

Company law. J Charlesworth et al. London: Sweet and Maxwell, 2011.

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

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

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

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

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

Insurance law in the United Kingdom. 3rd ed. John Birds. The Netherlands: Kluwer Law International, 2015.

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

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

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

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.

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

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

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

Subrogation: law and practice. Charles Mitchel et al. Oxford: Oxford University Press, 2007.

Subrogation and contribution in insurance practice. RM Walmsley. London: Witherby, 2001.

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

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

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

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 Henty. Taylor and Francis, 2014.

Critical company law. 2nd ed. Lorraine Talbot. London: Routledge, 2016.

Research handbook on the economics of insurance law. Peter Siegelman, Daniel Schwarcz. Cheltenham: Edward Elgar Publishing, 2015.

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 I and II. Alan Peck.
- Civil procedure rules. Alan Peck.
- The regulatory framework. Simon Collins.

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. Monthly. Also available online at 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.*

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

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

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

Exemplars

Exemplar papers are available for all mixed assessment units. Exemplars are available for both the coursework component and the multiple-choice 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.

These exemplar papers are also available on the RevisionMate website 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.

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).