



The Chartered Institute of Loss Adjusters

Associateship Examination 2010 (October)

Paper C3

Adjustment of Claims Liability

3 ½ Hours

Maximum Marks 200

Answer ALL questions in Part 1 and 2 questions from Part 2
Where appropriate, answers should make reference to relevant case law or statute

**PLEASE ENSURE THAT QUESTION NUMBERS ARE ENTERED CLEARLY AND IN FULL ON
THE COVER OF YOUR ANSWER BOOK AND IN YOUR ANSWER BOOK**



PART 1

ANSWER ALL QUESTIONS

QUESTION 1

You are instructed to deal with a claim submitted to your Principals for fire and malicious damage which has occurred to a farm shop retailing a range of local farm produce from both the Insured's farm and from other similar suppliers in the area. The business premises comprise a detached single storey building of timber construction with a pitched and felted roof supported on a concrete base. Inside the building, there is a basic range of equipment including a shop counter, a cash register, scales, a refrigerator and a freezer.

Your Principals' policy covers both the building and its contents. There is no cover for Business Interruption. The policy was incepted only one month prior to the incident. Your Principals provide you with a copy of the proposal document, which indicates that the business had been operating for several years but there is no apparent history of previous insurance. Your Principals also inform you that shortly after the claim was notified to them they received information from an anonymous source that the farm shop had allegedly been operating without planning permission.

On attending site you establish the majority of the stock and equipment has been damaged, the latter having been attacked with a hammer or similar implements. In addition there has been an attempt to set fire to the counter but this has caused only superficial damage. You learn that the Insured vacated and secured the premises at approximately 5.00 p.m. on the day of incident and at about 8.30 p.m. was contacted by local police officers who informed him there had been a break-in and fire at the premises. When the Insured, who is the sole key holder, arrived at the premises shortly afterwards, he found the front and only entrance door had been forced open.

During your initial discussions with him, the Insured loses no time in making it plain he will be looking for settlement of the claim as a matter of urgency and will not tolerate any delay.

Explain what further information you would seek from the Insured at the time of this initial meeting. State what further enquiries and investigations you would deem appropriate to enable you to submit appropriate recommendations to your Principals. Your answer should include an explanation of the benefits or necessity to obtain the information.

40 MARKS



QUESTION 2

A. In a typical Business Interruption Policy, what do the following terms mean?

- Trend
- Customers Extension
- Loss of Attraction
- Public Utilities Extension

(12 Marks)

B. When dealing with claims for Business Interruption in the following scenarios explain what action you would recommend to mitigate loss of turnover and any savings you might be able to identify:

- (i) Fire damage has occurred within the kitchen of a licensed hotel. Various essential items of catering equipment within the kitchen area have been destroyed and smoke has permeated throughout the remainder of the ground floor including the reception and bar areas. It may be necessary to source some of the replacement catering equipment from overseas suppliers and lead times of approximately three months have been quoted. The smoke damage to the remainder of the ground floor is, generally, fairly superficial and has affected decorations, other internal surfaces, furniture and equipment etc within the reception and bar areas.

(6 Marks)

- (ii) A firm of Accountants occupy rented offices on the ground floor of a building with multiple tenure. A burst pipe occurs within the roof space of the building and all the office accommodation, including that occupied by the Accountants is extensively waterlogged. In addition to the business interruption element, your Principals' policy covers trade contents but the building owners are liable for any structural repairs. To allow for the necessary drying out procedures it is estimated it will be at least three months before the premises can be occupied again.

(6 Marks)

- (iii) Impact damage has occurred to premises rented by a retail newsagent. At the time of your initial visit following the incident you are informed that the Insured will not be able to resume trading until certain emergency and temporary repairs are undertaken by the Landlords. These should be completed within about two weeks. Thereafter, there may be some further disruption whilst permanent repairs are in progress but, at this stage, it is not



possible to evaluate the extent of any such further disruption which may occur. (6 Marks)

- C. You are dealing with a fire loss under a commercial policy which covers property damage and business interruption. The Insured are retail carpet suppliers and they occupy a self contained unit attached to an adjacent much larger unit in separate ownership which is used as a furniture warehouse. The fire originated in the furniture warehouse and both that building and its contents were severely damaged.

In addition to the damage to the Insured's premises there is a business interruption claim. Temporary repairs enable the Insured to trade but there is a continuing loss of turnover.

Explain if any of the following losses would be covered. For the purpose of this exercise you may make whatever assumptions you wish regarding the business interruption cover but you must explain the assumptions you have made.

- (i) Loss of turnover in the week immediately following the fire, during which time the local authority refused permission for the premises to trade whilst the extent of the damage to the warehouse was assessed.

- (ii) Costs incurred by the Insured in an advertising campaign designed to make customers aware that the fire, which received substantial publicity in the local media, had not affected their premises and they continue to trade.

- (iii) Loss of turnover during the period in which the permanent repairs are undertaken. These repairs cannot be undertaken independently of the work on the warehouse. The damage adjacent is so severe the repairs do not begin until more than twelve months from the date of the fire.

(10 Marks)

40 MARKS



QUESTION 3

Having been instructed to deal with a High Net Worth loss, you are about to commence your pre visit enquiries. The loss concerns a theft from a mansion in a locality generally occupied by celebrities including footballers, television personalities and, it is believed, one of the members of a legendary rock band called “Maximum Indemnity” who had a recent hit with “Love is the Proximate Cause”.

- A. Damage has been sustained to the front door, the doorframe and to the decorations surrounding the front door. The damaged decorations are in the hallway and this is part of the large hall, stairs and landing area. Specify the details you would require to ensure that you are able to validate repair estimates provided in support of the building claim.

(15 marks)

- B. The Insurer has stated that there is a security warranty but is unable to furnish you with a copy. You believe the warranty to be strict in terms of requirements. Draft a security warranty that you could expect to be in place.

(15 marks)

- C. Having arrived on the scene you find that the Policyholder uses a pseudonym and is, in fact, a superstar known worldwide. She has recently been involved in adverse publicity allegedly surrounding drug taking and an assault of a night club doorman. Draft a section of your preliminary report concerning moral hazard.

(10 marks)

40 MARKS



PART 2

ANSWER 2 QUESTIONS ONLY

Question LB1

You are instructed by the Public Liability Insurers of “Starburst” a local late bar and dance club. The Insurers pass you a letter of claim that the insured received 3 months ago and initially ignored.

The letter of claim relates to an injury sustained by an 18-year-old woman who had been visiting Starburst and whilst on the dance floor, at approximately 2:00am, had slipped on what the solicitor’s state was a spillage which had not been attended to.

- a) Outline the information that you would seek to obtain from the Insured in respect of legal liability and explain the nature of information you would require to defend a claim such as this.

(20 Marks)

- b) Explain the potential policy issues that you may need to raise with Insurers in relation to a risk of this type. Include within your answer the further information that you would need from the policyholder in order to report fully on this matter to Insurers.

(10 Marks)

- c) The Insured have initially ignored the letter of claim, what issues might this cause in relation to the Civil Procedure Rules? Provide details of what action you might take to protect the position of both Insurers and the Insured.

(10 Marks)

40 Marks



Question LB2

You are instructed in relation to a claim for a fire that spread from your Insured's building to a neighbouring building. The insured risk is a fish and chip shop and you are told the fire spread from the range used within the fish and chip shop.

- a) Explain the common law position in relation to the spread of fire and detail how the common law position has been amended by statute. (10 Marks)

- b) Provide brief notes on the case of Drake v Harbour 2008 and explain how it may have a bearing on the current considerations in respect to fire damage to third party property. (10 Marks)

- c) Explain what enquiries you would want to make with your insured to form a preliminary view on liability and what action you make take to protect Insurers position. (20 Marks)

40 Marks

Question LB3

Write brief notes to explain the relevance to liability claims of **FOUR** of the following:

- a) CRU1
- b) Third Parties (Rights Against Insurers) Act 2010
- c) CFA
- d) Compensation Act 2006
- e) Donoghue V Stephenson (1932)
- f) Tomlinson v Congleton BC (2003)

40 Marks