



THE CHARTERED INSTITUTE OF LOSS ADJUSTERS

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STUDY GUIDE PAPER C2

APPLICATION OF THE PRINCIPLES OF INSURANCE

INTRODUCTION

The contents of this Study Guide will aid you in your preparations for the exam on Paper C2. It is important to note that it is not exhaustive and additional reading will be required, particularly of the insurance press, to ensure that you keep up to date with developments in the insurance press.

The philosophy of the Study Guide is to *assist* you in your studies by leading you through the syllabus section by section providing references to both materials and recommended reading.

Use of the Guide will assist you in an appreciation and understanding of the inter-relationship between the subject matter, case law and statute. It is important to remember that it is up to you to research the detail of cases and statutes. You will be expected to have some knowledge of historic and milestone cases and statutes mentioned in the recommended reading matter.

There are also sections giving brief guidance on Study Techniques and Examination Techniques. There are a number of books available on these subjects and if it is some time since you have undertaken any examination study you would find it helpful to read one of these books.

You may not need to purchase all the books referred to. A number of them will be available in your office library, the CII Library, or in your local public library. It is essential, however, to ensure that you are always studying the latest edition.

You should refer to the ACILA Reading List but for convenience the suggested books for the core subjects are included below.

STUDY TECHNIQUE

The following notes may assist you in developing a structured approach to your studies. If you have not undertaken any examination studies recently you may wish to read a book on examination and study techniques.

STUDY

- review the syllabus and reading matter before you start.
- prepare and follow a study programme.

QUESTIONS

- read questions in full, in the examination and in any study material.
- note or highlight relevant passages.

ANSWERS

- should be clear, concise, and chronological.
- and reasoned if required.

REPORTING

- refer to ABI laid down procedures.

THE POLICY

- the preamble - what is the cover - break down the wording.
- analyse it, and make sure you understand it.
- geographical limits.
- the conditions and exceptions.
- understand the reasons for these conditions and exceptions.
- the claims condition - period - in writing.

STATUTE

- who does it affect?
- how does it affect them?
- liability.
- defences.
- limitation.
- criminal/offence aspects.
- can you state examples of situations where the provisions apply.
- how many related cases can you quote.

CASE LAW

Can you state the following in relation to each case:

- facts / circumstances.
- relevance to the syllabus.
- give an example from your own experience.

QUANTUM

Factors to be considered:

- Policy wording re basis of settlement.
- Insurers option to repair or reinstatement.
- depreciated value.
- market value / reduction in market value.
- original cost / price paid.
- replacement cost / price paid.
- discounts available.
- salvage / residual value.

DEVELOPING SELF TEST MECHANISMS

CAN I DEFINE?

- negligence, nuisance, res ipsa, etc.....
- insurable interest, indemnity, subrogation, etc.....

CAN I GIVE EXAMPLES OF?

- land, property, owners, occupiers, etc.....

CAN I QUOTE

- Relevant Case Law and/or Statute?

AS A LOSS ADJUSTER DO I HAVE STRUCTURED APPROACH TO:

- what I need to know before I leave the office?
- my investigation on site?
- enquiries into small building losses and contents losses?
- reporting procedures?

WHAT DO I KNOW ABOUT THE INTERESTS AND/OR LIABILITIES OF:

- owners / occupiers?
- bailees?

WHAT DO I KNOW ABOUT:

- the relevant policy cover?
- providing examples where that cover is involved?

CAN I ADVISE ON:

- uninsured loss?
- warranties, conditions and exclusions?
- limitation periods?
- proximate / dominant cause?
- subrogation?

and

- support my views by reference to authority, case law, or statute?

RECOMMENDED READING

Fire Insurance Law and Claims (1997) (R.M.Walmsley) is a complete revision of a book published in the early 1980's which had become a classic insurance text on insurance claims. It covers the application of insurance principles to property damage claims and has been accepted as a standard work of reference.

The **Principles of Indemnity and its Application** (R.M.Walmsley) was published by CILA in 1995 and is relevant to the syllabuses of several subjects concerning material damage insurance. It sets out relevant legal cases and considers the enquiries and calculations required to implement the principle. It includes chapters on Legal Decisions, the valuation of Stock and Work in Progress. The detailed discussion in some sections of the book is too specialist for the syllabus of papers C1-C3 but there are sections of the book which cover matters which should be understood by candidates for these examinations.

The "Claims and" series was published by the Institute in 1993/94:

- **Claims and Standard Fire Policies** (1993) (R.M.Walmsley).
- **Claims and Public Liability Policies** (1994) (J.P.P.Shaw).
- **Claims and Theft All Risks and Money Policies** (1994) (D.Cutter).
- **Claims and Loss of Profits Insurance** (1994) (R.M.Walmsley).

There are also a number of books and papers which are relevant to aspects of the Associateship exams but which do not fall within a specific examination syllabus:

- **Arson and the Insured (1993)** (Paul A J May) (CII) comes in this category and can be purchased from the CII or borrowed from their library.
- **Insurance Research & Practice** is the journal of the CII's Society of Fellows. Its aim is to "publish good-quality research that is relevant to the work of practitioners in the area of insurance". For example, in the January 2000 issue there is a paper on proximate cause.

As well as the general reading mentioned above there are a number of publications which are relevant to the syllabuses of the Core Subjects:

- The Association of British Insurers:
 - Recommended Policy wordings and clauses for Fire,
 - Special Perils and All Risks (Material Damage)
 - Standard Fire Policy (Material Damage)
 - Instructions to Adjusters on Claims Procedure
 - Rules for Contribution between subscribing Insurers (Fire)
 - Motor Conference Agreement on Contribution
- Specimen Policies from different insurers.
- Fire and Special Perils Policies for Lloyd's Underwriters.

- Specimen Domestic Contents, Personal All Risks and Travel Policies from different UK Insurers including Lloyd's Underwriters.
- The various **Acts of Parliament** referred to in the syllabuses.
- Rules for referrals to the Insurance Ombudsman Scheme (IOB).
- Rules for the Private Arbitration Scheme (Chartered Institute of Arbitrators).
- **The Law of Theft** (1997) (J.C.Smith) (Butterworths).
- **Contribution** (J.R.M.Ball) (CILA technical paper).
- **Insurance under the JCT Forms** (1996) (F.Eaglestone) (Blackwell Science).
- **Contractors All Risks Insurance** (1993) (F.Eaglestone) (CILA).
- **The Commercial All Risks Policy** (1998) (J.R.Ball) (CILA technical paper).
- **Adjusters Guide to Stock Reconciliation** (1998) (J.R.M.Ball) (CILA technical paper).
- **Tenants Fixtures and Fittings** (1998) (M.Weatherhead) (CILA technical paper).
- **Intruder Alarm Signalling** (2000) (various authors) (ABI) A technical briefing report published by the ABI as part of their Research Strategy for General Insurance. The report includes background information on alarms, and the advantages and disadvantages of different systems.

INSURANCE PRINCIPLES

There are a number of books covering insurance principles. It is important to note the date of publication and, if you are using a book which was printed several years ago, make certain that you update the legal comments:

- **Introduction to Insurance** (1999) (D.S.Hansell) (LLP)
This book contains progress tests on each chapter

LEGAL PRINCIPLES

There are a number of books on contract law and on tort and you may already have a suitable book. Very readable introductory texts are:

- **Tort** (1999)(Vera Bermingham)(Sweet & Maxwell).
- **Contract Law** (1999)(Anne Ruff) (Sweet & Maxwell).

More substantial books are:

- **Insurance Law** (1998) (Ray Hodgkin) (Cavendish Publishing).
- ^a **Modern Insurance Law** (1997) (John Birds) (Sweet & Maxwell).
- **Colinvaux's Law of Insurance** (1997) (ed. Robert Merkin) (Sweet & Maxwell).

Reference works are:

- **MacGillivray on Insurance Law** (1997) (Sweet & Maxwell).
- **General Principles of Insurance Law** (1993) (Hardy Ivamy) (Butterworths).
- **The Law of Insurance Contracts** (1997) (Malcolm Clarke) (LLP).

TECHNICAL PAPERS

In the past the Institute has published occasional technical papers. The following is a list of those considered relevant for the current syllabus, however it is important to note the date that these were written and bear in mind that they may not reflect the current practice and legal position:

- **Subsidence, an unsettling problem** 1989 Roberts.
- **Contribution** 1996 Ball.
- **The Commercial All Risks Policy** 1997 Ball.
- **Adjusters Guide to Stock Reconciliation** 1998 Ball.
- **Tenants' Fixtures and Fittings** 1998 Weatherhead.

Stocks of these papers are no longer held but copies are available on the Institute's web site in the Members' / technical section.

TECHNICAL BULLETINS

Technical Bulletins are issued from time to time to all members. They contain information on current "technical matters" and may also contain information relevant to the examination syllabus. Copies can be downloaded from the Members' / technical section of the CILA website.

PAST EXAMINATION PAPERS

Copies of past examination papers are available from the Institute's office. Send you requests by e-mail to: info@cila.co.uk

SYLLABUS

The following items appear in the syllabus for C2. For most items *Fire Insurance Law & Claims* contains relevant material but where additional sources have been identified these are mentioned:

- **The principles of insurance and the law of tort.**
These items were studied in subject C1 and should be revised.
- **Policies.**
There are a variety of policy wordings in the market and you should obtain copies of as wide a variety as possible.
- **ABI Reporting Procedures .**
The ABI's General Insurance Council published a manual of "Recommended Practices,

Wordings and Procedures relating to Material Damage and Business Interruption Commercial and Industrial Insurance” in 1986. Some parts of this guide have been updated over the years and a revised edition should be issued in the near future. A copy of the manual should be available in your office. If you are unable to access a copy you should contact the ABI or the CILA office from where a photocopy of section 4, which deals with claims, can be obtained.

- **Fire and security plans and reports.**

Contact the Fire Protection Association [0207 902 5300] www.thefpa.co.uk

- **Common warranties in fire and theft policies.**

See Fire Insurance Law and Claims – chapter 4.

- **The principle of Contribution and the Association of British Insurers Rules on Contribution.**

Contribution J.R.M.Ball 1996 (CILA).

- **The principle of Subrogation.**

Subrogation and Contribution in Insurance Practice 2001 R.M.Walmsley (Wetherby's).

- **Material on the items included in the “understand” section of the syllabus can be found in Fire Insurance Law & Claims**

- **Arbitration.**

The Chartered Institute of Arbitrators publish a variety of material on arbitration. Copies can be obtained from the Institute or via their web site.

- **Legislation.**

You should obtain copies of the legislation mentioned in the syllabus. There are a number of web sites which contain articles and useful information on many of the statutes listed in the syllabus.

- **Case Law.**

See the appended Case Law Compendium.