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The Chartered Institute of Loss Adjusters

Associateship Examination 2014 (October)

Paper C3

Liability

3½ 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.

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PART 1
ANSWER ALL QUESTIONS

QUESTION 1

1. Define the term “Warranty” when applied to a policy of insurance. (4 Marks)
2. List four warranties that might apply to a typical Commercial Policy and two warranties that might apply to a typical Domestic Policy. (6 Marks)
3. Explain briefly the effect of breach of warranty, both in relation to a claim under a Commercial Policy and a claim under a Domestic Policy. (10 Marks)
4. What advice and recommendations should you provide to your Principals in the following circumstances:

The Insured, Mr A, has a portfolio of ten buy-to-let properties, all of which are terraced houses dating from the 1900s, in different areas of an industrial town. Your Principals provide Buildings Cover for all the properties, each of which is separately specified under the Policy. The Policy stipulates, amongst other things, that only “professional lets” are covered, references should be obtained for prospective tenants, each property should be inspected at least every two months and also damage caused by persons lawfully on the premises is excluded.

Mr A manages the portfolio himself and does not employ agents. He is normally diligent in obtaining references from potential tenants and ensuring they are suitable. However, on this occasion, this particular property had been occupied for three years by Mr T who had always been a good tenant. Since he was leaving the area to work elsewhere, he asked the Insured whether a friend of his, Mrs C, could take over as the new tenant. The Insured had met Mrs C on a number of previous occasions when visiting the property and understood that she was employed as a social worker. She seemed to be a respectable individual and could also take up occupation as soon as Mr T left so Mr A agreed that she could become the new tenant, particularly since she could pay six months’ rent in advance. A tenancy agreement was completed on this basis.

Two months later, Mr A called at the property to carry out the normal routine inspection. He had previously attempted to contact Mrs C by telephone to arrange the necessary appointment but without success. Since he was in the area, he decided to make a speculative visit but Mrs C was not at home and he was unable to gain entry. He then wrote to her to arrange a specific appointment for two weeks later. He did not hear from Mrs C but attended there on the appointed date. He then discovered that the front entrance door was temporarily boarded and, on enquiry with neighbours, was told that the Police had recently forced entry and had discovered that the house had been converted into a cannabis factory. The Insured immediately contacted the Police who confirmed these details and also told the Insured that it was suspected that Mrs C had allowed others to use the premises for the cultivation of cannabis. Neither Mrs C nor the other suspects can be traced. In addition, and although the Insured believed that Mrs C was a social worker, it would now appear, from further enquiries that he has carried out, that she worked in an unlicensed bar. The property has sustained significant structural and other cosmetic damage internally following its conversion into a cannabis factory. (20 Marks)

(40 MARKS)



QUESTION 2

1. Discuss the circumstances under which it might be appropriate to evaluate a stock loss using the stock reconciliation method and also comment upon any potential disadvantages of using this method of validation. Explain how the loss would be calculated on this basis (figures need not be included).

(12 Marks)

2. Explain briefly the term “Subrogation” and give one example of how this might arise when dealing with a claim. What initial action should you take once potential subrogation has been identified?

Discuss how the case of Mark Rowlands Ltd v Berni Inns Ltd (1986) impacts upon subrogation.

(14 Marks)

3. In the context of an insurance claim, what do you understand by the term “Salvage” and how should you deal with this if identified during the course of the claim?

(10 Marks)

4. Briefly outline the main features of the following legislation and how they may be relevant to the adjustment of an insurance claim:

- a) Riot (Damages) Act 1886
- b) Hotel Proprietors Act 1956.

(4 Marks)

(40 MARKS)

QUESTION 3

1. In a typical Business Interruption Policy, explain briefly the following terms:

- a) Loss of Attraction
- b) Increased Cost of Working
- c) Departmental Clause
- d) Suppliers Extension.

(12 Marks)

2. In the following scenarios, discuss briefly what action, if any, might be considered to mitigate loss of turnover. Unless otherwise stated, your Principals’ Policy also covers the Buildings and Trade Contents, cover is on the sum insured basis, and the maximum indemnity period is 12 months.



- a) Ladies Fashion Retailer. Estimated period of closure three months.
- b) Gentlemen's Hairdresser. Estimated period of closure five days.
- c) Licensed Betting Office. Privately owned and not part of a national chain. Estimated period of closure five days.
- d) Seaside café. Lock-up detached unit not owned by the Insured and occupied by them as tenants. Unit totally destroyed and interruption period not yet established but could potentially exceed the twelve month maximum indemnity period.

(20 Marks)

3. Explain briefly the following terms found in the Standard Fire Policy and how they would apply to the adjustment of a claim:

- a) Reinstatement Memorandum
- b) Public Authorities Clause.

(8 Marks)

(40 MARKS)



PART 2
ANSWER TWO QUESTIONS ONLY

QUESTION L1

You act for the combined Buildings and Contents Insurers of Mr Smith. The risk address comprises a three bedroom two story end terraced property. The policy provides both first party and property owners and occupiers liability cover.

Mr Smith commissions a loft conversion and engages Convert-a-Loft (CAL) as main contractors for the construction project. The arrangement is of a formal nature with the contract terms drafted and issued by CAL which Mr Smith accepts without amendment other than to negotiate a 5% discount in return for payment of 50% of the contract sum at the start of the works.

CAL have subcontracted the electrical works for the loft conversion to Sparks UK Ltd for the installation of all electric wiring and fittings. CAL have entered into a contract with Sparks as domestic subcontractors. Mr Smith has no involvement with Sparks directly.

The loft conversion was completed on 1 September 2013, and CAL handed the completed project over to Mr Smith the following day. Mr Smith settled the outstanding balance in full with CAL within 7 days of the handover.

A fire occurred at the risk address on 1 October 2013. Mr Smith notified his Insurers straightaway and informed them that the cause of the fire was electrical in origin. The fire had spread to the neighbouring property. There are no details on the damage caused to either property, but there were people in each property when the fire was discovered.

You have been instructed by Insurers to attend site immediately and investigate on their behalf.

- a) Outline the enquiries that you should make as part of your initial investigation and the rationale for these. Confirm the action plan that you should recommend to Insurers in your Preliminary Report.
(20 marks)
- b) What steps should you recommend be taken by Insurers upon receipt of their instructions in advance of the site visit in order to protect their interest and/or ensure the advice to the Policyholder regarding indemnity is not delayed.
(10 marks)
- c) How would your recommendations to Insurers differ if the forensic investigation identified that the cause of the fire was an electrical fault in an installation within the property that was not part of the electrical work associated with the loft conversion?
(10 marks)

(40 MARKS)



QUESTION L2

- a) Confirm the purpose of the Letter of Claim as specified under the Pre-Action Protocol for Personal Injury Claims (CPR). (10 marks)
- b) Confirm the specific detail required for a Letter of Claim in respect of a personal injury claim for a trip or slip on a pavement where public access is unlimited and what redress is available to the Defendant Insurer if this information is missing from the Letter of Claim. (10 marks)
- c) Provide a draft Letter of Claim which would be CPR compliant for a personal injury claim for a trip or slip on a pavement where public access is unlimited. (10 marks)
- d) Provide a draft Discharge Form to confirm the damages settlement of £10,000.00 for a personal injury claim arising from a trip and slip claim on a public highway. (10 marks)
- (40 MARKS)**

QUESTION L3

You act for the commercial liability Insurers of Star Recruitment.

The Policyholder occupies the top floor of a 12 storey office block within a city centre.

Discuss the exposure of the Policyholder and your Principals as regards legal and policy liability respectively for each of the four following scenarios:

- a) A tile falls off the roof in hurricane conditions and injures a pedestrian walking on the pavement outside the office block. The pavement is deemed to be a public highway with unlimited public access. (10 marks)
- b) An employee of Star Recruitment throws a book out of the window as a prank during office hours, which lands on a car parked outside. The car windscreen smashed upon impact and the passengers inside are in shock. (10 marks)
- c) The Policyholders have occupied the same suite of offices for twenty five years and during this time they have held singing classes every Tuesday evening. The adjoining building was converted from an office to a hotel a year ago. The hotel has been open to the public for six months. The hotel owners complain and threaten legal action to stop the singing classes and recover compensation paid to guests who have complained about noise levels on Tuesday evenings.



What would be the position if both the Hoteliers and the Policyholders had only occupied their respective properties for a year?

(10 marks)

- d) The windows to the Policyholder's office suite are being cleaned. The window cleaner is using his own cleaning equipment but gains access to the external elevation of the building by using hoist equipment supplied by the facilities management company for the building. The gate to the hoist swings open and the window cleaner's water spray equipment smashes into the side of the building, shattering the plate glass windows on various floors beneath the office suite occupied by the Insured. The window cleaner was engaged by the Policyholder as a bone fide subcontractor.

(10 Marks)

(40 MARKS)