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**The Chartered Institute of Loss Adjusters
Associateship Examination 2015 (October)
Paper C3 - Property Commercial**

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

- A. In a standard fire policy, Insurers seek to protect their right of recovery by means of the Subrogation Clause. Explain briefly the provisions of this Clause and whether it alters, in any way, the position applicable under Common Law. *(8 marks)*
- B. Discuss, with reasoning and by reference to statute and case law as appropriate whether recovery may be available in the following circumstances. In each case, you represent the building insurers.
- i) A detached private dwelling insured by your Principals is severely damaged by fire. This originated in a timber outbuilding in the garden of the neighbouring house and spread to the boundary fence and then to the adjoining conservatory of the insured's property. The cause of the fire was not positively established but may have been due to an electrical defect, the outbuilding being connected to the mains supply. *(8 marks)*
- ii) A building used for commercial purposes insured by your Principals and rented to a Tenant is damaged by an escape of water. Enquiries show that the cold water feed to a newly installed dishwasher in the staff kitchen failed due to being fitted incorrectly. The work was carried out personally by the Tenant who is not a qualified plumber. *(8 marks)*
- iii) The position is the same as ii) above, but on this occasion the work had been carried by an independent plumbing contractor. *(8 marks)*
- iv) The front boundary wall and part of the front elevation of the Insured's bungalow have been damaged following impact by a lorry. Enquiries show that the driver of the vehicle was forced to swerve to avoid a pedestrian who attempted to cross the road without checking that it was safe to do so. The pedestrian admits to being at fault but holds no insurance to cover any potential liability. The vehicle Insurers deny liability, but it was subsequently established that the driver was using a hand-held mobile phone at the time of the incident and was issued with a fixed penalty notice for this offence. *(8 marks)*

40 MARKS



QUESTION 2

- A. You are instructed to deal with a claim under a domestic Policy for the theft of jewellery and personal effects following forced entry into the Insured's property. Cover had been arranged with your Principals in January 2015 and the theft occurred in June 2015. Continuous Cover had previously been arranged with other Insurers, the Policyholder explaining to you that he always "shopped around" at renewal to secure the best available premium.

Following investigation, you find that the claim is in order and that there is no evidence that the loss has been overstated or exaggerated. However, during your investigations, you find that the Insured was imprisoned for six months in 2012 for persistently flouting driving bans which had been imposed during the previous five years for various motoring offences, including dangerous driving and driving without insurance. This is not disputed by the Insured who explains that his behaviour at the time was due to "personal issues" and he has not reoffended in any way since his release from prison.

You include these details in your Report to your Principals who instruct that they wish to avoid the policy for what they term as "material non-disclosure" on the basis that the history of driving offences and, in particular, the prison sentence should have been declared on application for Cover. Before conveying this decision to the Insured, they ask for your views and further advice.

For this purpose, they supply you with a Statement of Fact compiled at the application stage which the Insured has agreed is accurate. On reviewing this documentation, you note that the only relevant question appears to be:

"Have you within the last five years been convicted of any criminal offences other than motoring?" The Insured has replied in the negative.

There is no question that seeks disclosure of any term of imprisonment.

The document also refers to any material facts that should be disclosed.

Report further to your Principals to advise them how they should proceed, including reference to any specific legislation and case law.

Would your advice be the same in dealing with a claim under a commercial policy where the Insured is a sole trader and has not disclosed the term of imprisonment?

(30 marks)



- B. You have been instructed by Insurers to deal with a claim for fire damage to household contents. The sum Insured against Contents is £25,000 but you calculate that this is not adequate and that the Value at Risk is £75,000. The claim is in order and is validated at £10,000. You report to Insurers to this effect and, at the same time, seek their instructions regarding the underinsurance. The Policy stipulates that Insurers may either refuse to pay the claim or pay a proportion of it.

In view of the degree of underinsurance, Insurers decide to take the former option and refuse to pay the claim. They request you to notify the Insured to this effect.

Having done so, the Insured challenge the position and maintain that they were not warned on applying for cover of such drastic consequences. They point out that, during the application process, they were asked “what is the total value of the contents to be insured” and they gave the figure of £25,000. In noting this information, Insurers’ representative commented that this figure should be accurate and, if it was low, “they would not get the full value back” in the event of a claim. This is confirmed in the recording of the conversation

During your further enquiries, the Insured explain that they had understood the question to mean “what is the total value of the contents you want to be insured?”, whereas Insurers tell you that they intended the question to mean “what is the total value of all of the contents of the home you want us to insure?” From their interpretation of the question, the Insured consider that this has been accurately answered and that the full validated claim should be paid without penalty.

What advice would you provide to your Principals?

(10 marks)

40 MARKS

QUESTION 3

- A. You are instructed to deal with a claim for malicious damage to a fast food take away outlet. This occurred late at night and was caused by a number of inebriated youths who were refused service for being offensive to the Insured’s staff and other customers. The Police were called to the scene, but by that time the individuals responsible had disappeared and have not been traced. Your Principals provide cover for Trade Contents, Stock, Tenant’s Improvements and Business Interruption. The Buildings are covered under a separate Policy arranged by the Landlords through different Insurers. The Policy is subject to various warranties and, following your initial enquiries, you are able to confirm compliance, but with one exception. This relates to the cleaning of ducts from the frying range to prevent accumulation of fat deposits etc. The warranty requires cleaning at six monthly intervals and records maintained to this effect. However, you find that the last time they were cleaned was 12 months prior to the incident and the Insured attributes this to an administrative error on his part.



Significant damage has occurred to the frying range and other catering equipment. The Insured has been told by his suppliers that none of this equipment can be repaired and must be replaced. In the case of the frying range, a lead time of three months is specified.

The Insured is pressing for approval to replace the equipment and for an interim payment under the business interruption claim so that he can continue to pay his staff until the business reopens. This will be subject to satisfactory completion of the separate building repairs for which, at this stage, a three week period is estimated.

What initial advice would you give to both your Principals and the Insured?

(15 marks)

- B. Explain the term “Stock Reconciliation Basis”, and discuss the circumstances in which it might be appropriate to quantify the loss on this basis, outlining any specific issues and procedures that might be applicable.

(10 marks)

- C. Vandals, hurling bricks, damage the shopfront window of a ladies clothing retailer specialising in high class fashion and designer labels. Some of the stock on display has clearly been damaged by impact by the bricks and glass fragments. Other stock on display, remote from the point of impact, appears to be unaffected. However, the Insured is emphatic that all the shopfront display stock should be dealt with as total losses since there is the risk that some glass fragments may be found in other items. This could have adverse consequences for the business if such stock was sold and then found to have been damaged in this way. How do you deal with this issue?

(10 marks)

- D. Calculate the amount payable by Insurers in the following circumstances. All workings must be shown.

Agreed Loss of Gross Profit	£25,000
Loss Assessor’s Fee	£2,000
Accountant’s Fee for certifying turnover	£350
Sum Insured	£100,000 (Declaration Basis)
Insurable Amount	£125,000

(5 marks)

40 MARKS



PART 2
ANSWER TWO QUESTIONS ONLY

QUESTION PC 1

You are instructed by Insurers to adjust a claim involving buildings, contents and stock following a serious fire at a hotel owned and occupied by the insured. This is a multi-storey building. The ground floor comprises the main hotel entrance, together with a restaurant and several concessions selling luxury branded items, principally clothing, accessories and small electrical goods such as cameras and tablet computers. The concessions pay a flat rent plus a proportion of their turnover to the insured. The remaining floors of the hotel comprise accommodation and facilities for the sole use of the hotel's residents.

Such was the damage you could not determine whether the fire started in or adjacent to the frying range in the restaurant kitchen, or the adjacent concession that sells electrical equipment. The stud partition between the two areas was consumed in the fire. You discover that a contractor had only recently completed the refurbishment of the kitchen and restaurant at a cost of £1m.

Assume a standard fire policy exists with warranties commensurate with the risk.

- 1) What policy considerations would you consider?
(8 marks)

- 2) List the warranties you may expect to apply and advise how you would establish compliance?
(8 marks)

- 3) Detail the instructions you would provide to a forensic investigator and why?
(8 marks)

- 4) What potential recovery rights may arise? Discuss when you would put the third party on notice.
(8 marks)

- 5) As a result of the fire, a number of the hotel's employees and guests intimate claims for damage to their personal property. How would you deal with these claims?
(8 marks)

40 MARKS



QUESTION PC 2

- 1) Explain how Day One Reinstatement Cover operates. *(8 marks)*

- 2) Explain how you would check the adequacy of the sum insured on a policy written on a Day One Reinstatement Basis and the basis upon which “Average” applies. *(8 marks)*

- 3) Contrast reinstatement as provided for under the Condition incorporated in a Standard Fire Policy, with reinstatement under the terms of the Reinstatement Memorandum. *(8 marks)*

- 4) Explain how “Average” applies under the terms of the Reinstatement Memorandum? *(8 marks)*

- 5) Explain the provisions of the Public Authorities Clause. *(8 marks)*

40 MARKS

QUESTION PC 3

You have been instructed by the insurers of a property investment company in relation to damage caused to one of their properties by a surcharge from the mains sewerage system during a severe and prolonged thunderstorm.

The building comprises a multi-tenure office block in a central city location. The entire basement of the building comprises a gymnasium/fitness centre that is part of a popular national chain. After acquiring the basement, the tenant undertook a complete fit-out commensurate with their national branding. The basement contains all the facilities that you would associate with a fitness centre.

The tenant occupies the basement under the terms of a full repairing lease which requires the landlord to insure the building. The rent receivable by your Principal’s insured from this tenant is £312,000 per annum.

The sewerage entered the basement via the various toilets when the mains drainage system was no longer able to cope with the volume of rainfall. The basement was flooded to a depth of 600 mm. Unfortunately, the basement had been tanked/waterproofed at the time of construction so the black water could not naturally drain away and had to be pumped out of the basement.



- 1) Prior to your instruction, the landlord implemented their emergency procedures and instructed a specialist contractor to pump the black water out of the basement. The cost of this aspect was considerable (in excess of £100,000) but was well underway by the time of your first site visit the day after the incident occurred. You have concerns that the costs involved are high. How would you seek to validate quantum in respect of this item?

(8 marks)
- 2) Describe the nature and extent of damage that you would expect to find when the black water has dissipated and the immediate remedial measures that you would put in place.

(8 marks)
- 3) Following completion of the drying process, the tenant instructs their preferred contractor to undertake all the reinstatement works under a “fast-track” contract, working 12 hours per day and at weekends in order to reduce the period of closure by an estimated 4 weeks and mitigate the business interruption claim. This will incur considerable additional costs, estimated at £40,000. The tenant’s loss adjuster asks you to consider contributing towards these additional costs. How would you approach this aspect and why?

(8 marks)
- 4) The main electrical distribution board has sustained damage. The mechanical & electrical consultants advise you that the existing board no longer complies with current regulations and consequently it should be replaced with an upgraded board at an additional cost of £3,000. How would you deal with this item and why?

(8 marks)
- 5) Explain the difference between “Tenants’ Improvements” and “Tenants’ Fixtures & Fittings”. Under what circumstances could Tenants’ Improvements fall to be dealt with under the landlord’s buildings policy?

(8 marks)

40 MARKS