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**The Chartered Institute of Loss Adjusters  
Advanced Diploma Examination 2017 (April)**

**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**

A. Explain how the Insurance Act 2015 deals with the following issues:

- i) Breach of Warranty
- ii) Fraudulent Claims.

*(25 Marks)*

B. Outline the main provisions of the Consumer Insurance (Disclosure and Representations) Act 2012 and explain how these might apply to the adjustment of an Insurance Claim.

*(15 Marks)*

**40 Marks**

**QUESTION 2**

a) Explain the difference between Contribution calculated on the Independent Liability basis and Contribution calculated on the Sums Insured basis.

*(8 Marks)*

b) The agreed loss is £25,000. The Sum Insured against Policy A is £20,000 and for Policy B the Sum Insured is £50,000. Showing the method of calculation, advise the Contribution payable by each Policy towards the agreed loss.

*(8 Marks)*

c) Using the same figures as above, and again showing the method of calculation, advise the Contribution payable by each Policy on the Sums Insured basis.

*(8 Marks)*

d) The insured own a holiday apartment in Spain where they stay on a regular basis. On one occasion, a theft occurs and they submit a claim to your Principals. The Policy covers unspecified Personal Effects with a Sum Insured of £3,000. The claim is in order and is validated at £4,000. Your Principals therefore conclude settlement at £3,000 on the basis of the Sum Insured.

You had previously asked the Insured to provide you with details of any separate Travel Insurance that they may have arranged. Following settlement of the claim, they confirm that a separate Travel Policy is in place and you find that similarly this provides cover for unspecified Personal Effects and with a Sum Insured of £750.

Your Principals wish to know whether any Contribution may be available from the Travel Insurers. What advice do you provide to them?

*(8 Marks)*

*(Continued)*



- e) Discuss briefly the potential for Subrogation that may be available in the following circumstances, citing relevant case law and statute as appropriate:

Fire damage has occurred to the Insured's property including both Building and Contents. The fire originated within and spread from the adjoining property. It is known that the occupier of that property is a smoker and the Fire Service have recorded the supposed cause as a carelessly discarded cigarette. At the time of the fire, various family members, some of whom are also smokers, were visiting the neighbour.

*(8 Marks)*

**40 Marks**

### QUESTION 3

1. In a typical Commercial Policy covering Material Damage and Business Interruption, explain the following terms:

- a) Material Damage Proviso
- b) Increased Costs of Working
- c) Contract Price Clause
- d) 15% Co-Insurance Clause.

*(15 Marks)*

2. The Insured are suppliers of CCTV and other electronic equipment to trade and commercial users. The stock is packaged in cardboard cartons and stored on shelving in a warehouse owned by the Insured. A burst pipe occurs which saturates the cardboard cartons directly below. You are appointed by Insurers and, following your enquiries, Policy Liability is confirmed. It is accepted that the equipment within the packaging that has been saturated has been rendered a total loss and quantum is evaluated at £7,500.

However, the Insured, with the support of their Brokers, maintain that other packaged equipment adjacent to the area directly affected should also be declared a total loss since there is the risk of malfunction due to ingress of moisture and potential danger to end users. In such event, the supply of potentially defective equipment might impact significantly upon their commercial reputation and to this end, and even if Insurers concede that this additional equipment can be included within the claim, the Insured would not allow any salvage disposal by way of mitigation. There is no immediate evidence that this additional stock has been damaged, its external packaging exhibiting no signs of water staining or dampness. If the claim for this equipment is admitted, the additional claim costs are estimated at £15,000.

In discussions with the Insured and their Brokers, you have suggested, as a possible solution, specialist random sampling to ascertain whether there is evidence of moisture-related damage. This proposed procedure is, however, not acceptable to them and they would require all the equipment to be checked, which would clearly be uneconomic.

*(Continued)*



In view of the impasse that has been reached, what recommendations do you submit to your Principals?

*(20 Marks)*

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

Agreed Loss of Gross Profit	£50,000.00
Fees of Claimant's Loss Adjusters	£2,000.00
Accountant's Fee for certifying turnover (at Insurers' request)	£500.00
Sum Insured on Gross Profit	£200,000.00 (Declaration Basis)
Insurable Amount	£300,000.00

*(5 Marks)*

**40 Marks**



**PART 2**  
**ANSWER TWO QUESTIONS ONLY**

**QUESTION L1**

Storebuild Ltd are contracted by a supermarket to construct a store within an out-of-town retail park. Two weeks before the planned works commencement date, Storebuild approach a local firm, Guard-It Ltd, to provide site security and guarding during the works period. Discussions are held between Storebuild and Guard-It concerning the Storebuild security requirements and budget. It is agreed that Guard-It will provide security for a negotiated cost of £12,000.

Guard-It e-mail their quotation to Storebuild, confirming the address and description of the works site, the security period and the narrative “for the provision of security services in accordance with the agreed Assignment Instructions - £12,000”. The Assignment Instructions specify there will be a security guard on site each night from Monday to Friday during the hours of 6 pm until 7 am and throughout the weekend. It is also stated in the Assignment Instructions that the weekend security guard is to patrol the site six times on a Saturday and six times on a Sunday at random times. The site has one gated entrance. The security hut is 25 metres from the entrance. The remainder of the site is protected by hoarding.

Four months later, during the early hours of a Sunday morning, intruders gain access to the site by removing the rear boundary hoarding at the opposite end to the main entrance. They remove lengths of copper pipework, which they load onto a van parked on the road outside the hoarding. They also remove plumbing fittings, electrical cable and tools from a temporarily constructed storeroom. They remove a small generator that Storebuild have on hire from Power Hire Ltd. The theft is discovered by a Storebuild employee on his arrival for work at 6.50 am on the Monday morning. The police advise that the theft circumstances are similar to those carried out on other properties within the area during the preceding months. They suggest that the thieves must have taken several hours to remove all the items, particularly the pipework.

Storebuild demand that Guard-It compensate them for their losses as the theft would not have occurred had there been more security guards on duty and more frequent and properly undertaken security. Guard-It’s management say they have done nothing wrong and that they will inform their Public Liability Insurers. They also refer Storebuild to their Terms and Conditions, which limit their legal liability for any property damage or loss caused by any non-compliance with their security obligations to the sum paid for the property guarding and security services.

Guard-It then receive a letter of claim from Solicitors instructed by Storebuild. This letter of claim repeats the allegations against Guard-It that were made verbally by Storebuild. The claim pursued against Guard-It amounts to £38,500, as follows:

Copper pipework	16,250
Fittings	2,750
Miscellaneous tools	8,000
Generator (on hire)	6,500
Management time	<u>5,000</u>
	<u>£38,500</u>

*(Continued)*



- A. The Public Liability Insurers of Guard-It instruct you to respond to this claim. They mention specifically that they seek your advice concerning legal liability and quantum. They do not require you to advise them on Policy coverage.

When considering the Solicitors' allegations in their letter of claim, what are the likely legal grounds under which a Guard-It legal liability might arise? What possible defences or counter-arguments occur to you?

*(10 Marks)*

- B. Outline the enquiries you would undertake with Guard-It and with Storebuild's Solicitors to assist in your determination of Guard-It's legal liability. Mention any documents you would need to consider in the course of your enquiries and your reasons for this.

*(20 Marks)*

- C. Explain your thoughts on the claim settlement proposal you might recommend if legal liability was established and any obtained supporting documentation was satisfactory. You are permitted to make any reasonable assumptions when submitting your answer, provided these are satisfactorily explained

*(10 Marks)*

**40 Marks**

## **QUESTION L2**

You are instructed by the Public Liability Insurers of the Scenic Hotel, which hosted the wedding reception of Mr and Mrs Newlywed in their function room. This room can accommodate 120 persons, but this is reduced when tables and seats are laid out. The room has a wooden floor and a small bar in which a barman and glass collector are on duty during functions. The resident DJ and band played during the wedding reception. Guests are allowed to buy drinks from the main hotel bar and bring them into the function room.

The event went well and during the following week the bride and groom wrote to thank the hotel management.

Approximately 2 months after the event, the hotel management received a Letter of Claim from Solicitors acting for a guest, Mr Fall, who states he slipped on a drinks spillage whilst dancing at the wedding. They say he was a guest at the evening reception. It is stated that he suffered a fractured wrist. When the hotel management forward the Letter of Claim to the Insurer, they state that they have no knowledge of this incident nor of this guest, who was not on the invitation list for the sit-down meal.

- A. What investigations should you pursue to formulate your preliminary or first report to the instructing Insurers, which should include your advice on legal liability and quantum as well as a recommendation on future action.

*(30 Marks)*

*(Continued)*



- b. Outline the reserve you would recommend in your report and briefly explain your reasoning.

*(10 Marks)*

**40 Marks**

### **QUESTION L3**

Answer **FOUR** of the following:

1. What is the investigation period for Employers' Liability and Public Liability Claims under the Claims Portal? Outline two circumstances in which a Claimant's Solicitor would not have to present a claim under the Portal.  
*(10 Marks)*
2. In what circumstances can a Claimant legitimately claim reliance on the doctrine of Res Ipsa Loquitur? Provide a brief explanation of this term.  
*(10 Marks)*
3. Explain the relevance of the decision in James Budgett Sugars v Norwich Union (2003) in relation to Product Liability Claims.  
*(10 Marks)*
4. Outline the wording of a Financial Loss Extension under a Liability Policy and give an example of a claim situation in which this extension would apply.  
*(10 Marks)*
5. What is the relevance of Section 69 of the Enterprise and Regulatory Reform Act 2013 in relation to Employers' Liability Claims?  
*(10 Marks)*

**40 Marks**