



**STRICTLY PRIVATE & CONFIDENTIAL**  
*for internal use only*

**The Chartered Institute of Loss Adjusters**

**Advanced Diploma Examination 2018 (April)**

**Paper AD2**

**Liability**

**3½ Hours**

**Maximum Marks 200**

**Answer Any Five Questions out of Six**

*Where appropriate, answers should make reference to relevant case law or statute.*

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

**Notice of Copyright**

This document and any information contained therein remains the confidential and copyright property of the CILA. Without infringement neither the whole, nor any extract, may be disclosed, loaned, copied or used for manufacturing, the provision of services or any other purpose whatsoever without the express permission and written consent of the CILA. No liability is accepted for any loss or damages from any cause whatsoever arising out of the use of this document or its contents.

COPYRIGHT © CILA 2018



## ANSWER ANY 5 QUESTIONS OUT OF 6

### QUESTION 1

- a) Outline the main provisions of the Insurance Act 2015 and explain how these may be relevant to the adjustment of an insurance claim. *(20 Marks)*
- b) Explain the following terms and how they would apply to the adjustment of an insurance claim:
- i) Reinstatement Memorandum
  - ii) Public Authorities Clause
  - iii) Escalator Clause
  - iv) Contract Price Clause
  - v) 10% Co-Insurance Clause.
- (20 Marks)*

**40 MARKS**

### QUESTION 2

- a) Explain the difference between Contribution calculated on an Independent Liability basis and the Sums Insured basis. *(6 Marks)*
- b) You have been appointed to deal with a claim for flood damage that has occurred at the Insured's property. Your Principals' Policy covers Contents, with the Buildings being covered separately by different Insurers.

Due to the extent of the damage, the Insured and his family require alternative accommodation. It is agreed with the Adjusters representing the Buildings Insurers that their Principals will initially finance these costs and that your Principals will contribute on the basis of each Insurer's independent liability.

Ultimately, the outlay of the Buildings Insurers is quantified at £10,000. The Sum Insured for such costs under that Policy is £25,000 whilst the Sum Insured under your Principals' Policy is £7,500. Additionally, and on first notification of the claim out of hours, your Principals agreed and paid for emergency hotel accommodation at a cost of £500.

Showing all relevant workings, calculate the Contribution now payable by your Principals.

*(10 Marks)*



- c) You are dealing with a claim presented to your Principals for the loss of a gentleman's gold watch. This occurred whilst the Insured was on holiday in France. The Policy includes cover for Unspecified Valuables with a Sum Insured of £5,000 and including a Single Article Limit of £1,500.

Your enquiries establish that the claim is in order and, allowing for Supplier's discount, the replacement cost of the watch is validated at £2,000. Accordingly, settlement is concluded at £1,500 on the basis of the Single Article Limit and this amount is paid to the Insured.

The Insured had disclosed a separate Travel Policy that would cover a loss of this type but with a Single Article Limit of £300. Your Principals request you to contact the Travel Insurers to obtain contribution of that amount towards the outlay they have incurred. What advice do you provide to your Principals on this issue?

*(10 Marks)*

- d) Explain the term "Subrogation" and how this might arise when dealing with an insurance claim.

Briefly discuss how the precedent established in the case of *Mark Rowlands Ltd v Berni Inns Ltd (1986)* impacts upon subrogation.

*(8 Marks)*

- e) Explain briefly the term "Salvage" within the context of an insurance claim and how this would normally be dealt with.

*(6 Marks)*

**40 MARKS**

### QUESTION 3

- a) 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)*

- b) In a typical Business Interruption Policy, explain:

- i) The difference between Increased Costs of Working and Additional Increased Costs of Working. Give one example of each
- ii) The circumstances under which Cover under the Denial of Access Extension would be available
- iii) The term "Material Damage Proviso"
- iv) Declaration Basis of Cover.

*(16 Marks)*



- c) You are dealing with a claim for fire damage that occurred at a ladies fashion retailer in January 2018. Your Principals' Policy covers both material damage and business interruption, with a twelve month indemnity period applying to the latter. Due to the damage that has occurred, it is estimated that the shop will be closed for about two months whilst building repairs are completed.

Your enquiries have established that the Sums Insured against the various heads of cover, including business interruption, are all adequate apart from stock, the Value at Risk being confirmed at £100,000 against a Sum Insured of £75,000. You explain to the shop owner the application of average and that effectively she will receive only 75% of the stock claim, initially estimated at £50,000. The position is accepted but the Insured then raises the following issues:

Due to the shortfall in the stock claim, she will not be able to acquire her normal range of stock for the forthcoming summer sales period and this will impact adversely on her turnover during this time.

In addition, and due to the closure of the shop in the aftermath of the fire, she will be left with some undamaged seasonal stock which she may subsequently only be able to sell at a significantly reduced price.

She expects that any losses arising from these issues will be reimbursed within the scope of the Business Interruption Claim. What advice do you provide to her?

*(12 Marks)*

**40 MARKS**



## QUESTION L1

Jack owns a one bedroom flat. On 1<sup>st</sup> September 2017, he rented the flat to Sophie for 6 months under a Tenancy Agreement. He insured the building and the Landlord's fixtures. Sophie did not contribute to the insurance premium or insure her own contents.

On 2<sup>nd</sup> September 2017, Sophie purchased a vacuum cleaner from a local retailer, Tom. The cleaner was sold at a slightly lower than advertised price as it had been a demonstration model in the shop. It was sold with an operations manual. Tom advised Sophie to contact him if she had any problems.

On 3<sup>rd</sup> September 2017, Sophie vacuum cleaned the carpets throughout her flat. After 20 minutes, she had practically finished the task when the cleaner cut out. She referred to the manual which suggested the dust bag should be emptied. Sophie did this, noting the vacuum cleaner was hot. She completed the task.

The next time Sophie used the cleaner was on 10<sup>th</sup> September 2017 and the same thing happened. This time Sophie was about to empty the dust bag again when a friend telephoned and Sophie left the flat immediately to meet her friend for lunch. Sophie had switched off the vacuum cleaner but left it plugged in, standing on her lounge carpet.

When Sophie returned an hour or so later, the fire brigade were outside the flat. It transpired that a fire had broken out in the vacuum cleaner and that neighbours had heard the smoke alarm, prompting them to call the fire brigade.

You are instructed by the Product Liability Insurers for Tom and you are informed that the following claims have been presented by Jack and Sophie.

### Jack

Replacement lounge carpet  
Redecoration following smoke damage to lounge and kitchen  
Cost of Fire Brigade Report  
Loss of rent payable by Sophie - two weeks.

### Sophie

Cleaning her clothing and personal effects due to smoke damage  
Replacement vacuum cleaner  
Two weeks' alternative accommodation  
Loss of food due to deterioration during her two weeks' absence  
Inconvenience.



Although Jack has property insurance, he obtained his own Fire Brigade Report and decided to pursue a direct claim against Tom. The Fire Brigade stated the fire had started in the vacuum cleaner.

- a) What enquiries would you pursue with (i) Tom, (ii) Jack, (iii) Sophie and (iv) any other party in order to consider the legal liability position arising from the incident and the reasonableness and justification of the presented claims?  
*(20 Marks)*
- b) Draft a brief Legal Liability section of your Preliminary Report to Insurers. Explain the potential liability of Tom regarding the claims pursued by Jack and Sophie. Mention any areas of potential legal liability you have considered but eliminated.  
*(12 Marks)*
- c) Suggest a settlement proposal you would forward to Jack and Sophie in response to their presented claims following an agreement that legal liability attaches to Tom. You may make assumptions when outlining your response as long as these are fully explained.  
*(8 Marks)*

**40 MARKS**

## QUESTION L2

The following statutes are frequently encountered in the course of handling liability claims.

Select four of the six listed statutes.

Outline a practical example of claim circumstances to which the selected statute might apply and explain the likely case outcome when the relevant statute is considered.

Consumer Protection Act 1987  
Defective Premises Act 1972  
Hotel Proprietors Act 1956  
Animals Act 1971  
Sale of Goods Act 1979  
Enterprise and Regulatory Reform Act 2013 (Section 69)

*(10 Marks Each)*

**40 MARKS**



### QUESTION L3

Marie Gold owns a livery and horse stable business in which she rents stables to horse owners.

Daisy, Lily, Rose and Poppy all rent stables from Marie Gold. Poppy is 12 years old and rents her stable through her mother Rose.

Daisy has use of a small storage shed next to her stable. There is a concrete access step in front of the shed.

On 6<sup>th</sup> June 2017, Daisy ran across the cobbled stone courtyard towards her shed. She fell at the entrance and suffered a serious laceration to her right kneecap which required hospital treatment including stitches.

It was raining heavily. An hour before the accident, there had been a delivery of straw by Browns. This had been ordered and paid for by all the stable renters, including Daisy.

Haymaker Solicitors are instructed by Daisy to pursue a claim against Marie Gold for her injury, alleging negligence and breach of the Occupiers' Liability Act 1957. It is pleaded that there had been a failure to properly sweep the courtyard after the hay delivery and that the slippery courtyard had caused Daisy to slip and strike her knee on the step.

Marie Gold was not present when the accident occurred and she denies having any knowledge of the incident until she saw comments posted on Facebook by Daisy two days later.

Lily saw the accident as she glanced in a mirror hanging on the wall of her stable tack room. Poppy also saw the accident occur. Both witnesses say that Daisy tripped over the step and fell onto it whilst running to get out of the rain. Rose did not see the accident but she provided first aid treatment for Daisy who was complaining about the accident during her treatment.

You are instructed by the Public Liability Insurers of Marie Gold.

- a) What investigations would you pursue and what form would they take? What evidence would you seek to obtain and with whom would you pursue your investigations following your instructions to investigate and handle this claim on a cradle to grave basis?

*(16 Marks)*

- b) List the legal liability aspects of the case that you would include in your Preliminary Report to Insurers, outlining the grounds upon which the claim against Marie Gold could be accepted, declined or redirected by her Public Liability Insurers.

*(8 Marks)*

*Please turn over*



- c) Daisy is 22 years old and her Medical Report is that she suffered a soft tissue injury and laceration to the front of her right knee. It healed within 3 months of the accident but has left a scar measuring 4cm by 1cm.

A Special Damages Schedule has been produced by Haymaker Solicitors as follows:

Loss of earnings	£200.00 (2 days at £100)
Care and assistance (provided by parents)	£270.00 (12 days × 3 hours at £7.50/hour)
Travel costs	£ 52.50 (150 miles at 0.35p/mile)
Medication	£ 10.00
Miscellaneous expenses	<u>£ 25.00</u>
<b>TOTAL</b>	<b><u>£557.50</u></b>

Interest is claimed at the standard rate.

Haymaker Solicitors have presented this Medical Report and Schedule even though they are aware no decision has been reached on legal liability. The instructing Insurers have asked you to review the claim reserve following consideration of the Medical Report and Schedule. Outline the reserve you would recommend and include an explanation for the heads of claim you include in this reserve.

What substantiation by way of further information or documents would you request in order to assess the valuation of the presented claim as accurately as possible?

*(16 Marks)*

**40 MARKS**