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Insurance law (IL) Exam

CII M05

Version Demo

Total Demo Questions: 9

Total Premium Questions: 95

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Topic Break Down

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QUESTION NO: 1

For this question more than 1 option is correct. You must select all the correct options to gain the mark. What are the main sources of new English Law?

A. International treaties.

B. Case law.

C. Legislation.

D. Official law reports.

ANSWER: B C

Explanation:

Case law and legislation are the principal sources through which new English law is created and developed. Legislation comprises Acts of Parliament, which are enacted through the parliamentary process and, once in force, form statute law. Parliament is sovereign in the UK constitutional framework, so legislation is a central means of introducing new legal rules, rights, duties and regulatory regimes. The official, revised texts of UK public general Acts and other legislation can be accessed through legislation.gov.uk.

Case law is created as courts decide disputes and give judgments. Under the doctrine of judicial precedent, the legal principle necessary to decide a case—the ratio decidendi—can bind lower courts where it comes from an appropriate superior court. Judicial decisions therefore both apply existing legal rules and develop the common law in areas not wholly governed by statute. This continuing process makes case law a major source of English law. Authoritative court judgments and related legal materials are widely available through the British and Irish Legal Information Institute. Together, legislation and binding judicial precedent provide the primary formal routes by which English law is made and evolves.

QUESTION NO: 2

Which of the following is an example of a condition precedent in an insurance contract?

A. The insured must pay the premium

B. The insured must maintain the insured item in good condition

C. The insurer must provide coverage for accidental damage

D. The insurer is required to pay claims for theft

ANSWER: B

Explanation:

The insured must maintain the insured item in good condition is an example of a condition that may be drafted as a condition precedent to the insurer's liability. A condition precedent is a contractual requirement that the policyholder must satisfy before the insurer is obliged to respond to a claim. In property insurance, maintenance obligations can be used to manage the risk insured: for example, a policy may require equipment, buildings, or security protections to be kept in an effective condition. Where the policy clearly makes compliance a condition precedent, a failure to comply can affect the insurer's obligation to pay, subject to the applicable statutory rules and the terms' proper construction.

For consumer and non-consumer insurance contracts, section 11 of the Insurance Act 2015 limits an insurer's ability to rely on a term designed to reduce the risk of a particular type of loss where the policyholder can show that the breach could not have increased the risk of the loss that actually occurred. This reinforces the importance of identifying the purpose of a maintenance requirement and its connection with the claim. See Insurance Act 2015, section 11 and the Insurance Act 2015, section 10.

QUESTION NO: 3

For this question more than 1 option is correct. You must select all the correct options to gain the mark. What are the characteristics of an express term in reaching or recording an agreement?

A. It will usually override any implied term which conflicts with it.

B. It must be evidenced in documentary form.

C. It may be oral or in writing.

D. It may be implied by conduct.

ANSWER: A C

Explanation:

"It will usually override any implied term which conflicts with it" is correct because an express term is one the parties have specifically agreed as part of their bargain. The courts seek to give effect to that stated agreement, so a contractual term expressly agreed by the parties will ordinarily take priority over an implication which would otherwise arise from custom, previous dealings, business efficacy or the usual incidents of that type of contract. The word "usually" is important: an express provision cannot displace a term that legislation makes mandatory, particularly where consumer protection law prevents exclusion or restriction of the relevant right.

"It may be oral or in writing" is also correct. Contract law does not generally require a contract, or an express term within it, to be recorded in a signed document. Parties may expressly agree a term in spoken negotiations, through correspondence, or in a written policy, proposal or contract wording. The key feature is that the term has been communicated and agreed expressly, rather than inferred from the parties' conduct or the circumstances. Written evidence is often valuable for proving the term and its precise wording, but it is not a universal requirement for validity. See the Sale of Goods Act 1979, section 13 and the Consumer Rights Act 2015, section 31 for examples of statutory limits on contractual terms.

QUESTION NO: 4

The proximate cause of a loss is best described as the

A. most dominant cause of the loss.

B. most remote cause of the loss.

C. first peril to cause the loss.

D. final peril to cause the loss.

ANSWER: A

Explanation:

The **most dominant cause of the loss.** is the best description because proximate cause means the effective, efficient or predominant cause that brought about the loss. It is identified by examining the real chain of events and deciding which cause had the decisive influence, rather than simply selecting the event that happened first, last, or was closest in time to the damage. This reflects the insurance-law principle of *causa proxima non remota spectatur*: the proximate, rather than remote, cause is considered. Establishing that effective cause is central to deciding whether a loss falls within the insured perils provided by the policy, subject to its exclusions and other terms. The Financial Ombudsman Service explains that, where more than one event contributes to a loss, the key issue is generally the dominant or effective cause. The legal principle is also discussed in the UK Supreme Court's judgment in *The Financial Conduct Authority v Arch Insurance*, which considers causation in insurance claims. See the Financial Ombudsman Service decision and the UK Supreme Court judgment.

QUESTION NO: 5

In tort law, when, if at all. is a minor legally responsible for his acts?

A. He is only responsible if a criminal ad has also been committed.

B. He is never responsible.

C. He is usually fully responsible.

D. He is only responsible if he is over 14 years of age.

ANSWER: C

Explanation:

"He is usually fully responsible." is correct. A minor can commit a tort and is generally personally liable for the resulting loss or damage. Minority does not provide a general immunity from tortious liability: for example, a child may be liable for negligence, trespass, defamation, or intentional wrongdoing where the elements of the relevant tort are established. In negligence claims, the court does not necessarily judge a child by the precise standard expected of a prudent adult. Instead, it considers the care reasonably expected from a child of the same age, intelligence and experience. This adjusts the applicable standard of care, rather than removing legal responsibility altogether. The Court of Appeal applied that approach in *Mullin v Richards*, involving injuries caused by schoolchildren during play: see BAILII: Mullin v Richards [1998]. The answer says "usually" because there can be particular legal and factual qualifications, including situations involving very young children or tort claims that are closely connected with contractual obligations. However, the core rule for tort law is that a minor is ordinarily capable of being liable for his or her own torts. This is distinct from the special rules governing a minor's contractual capacity, reflected in the Minors' Contracts Act 1987.

QUESTION NO: 6

A building owner has a property policy covering fire damage to her building. Her tenant has separate liability insurance covering its legal liability to the owner for damage to the building. After a fire, the owner's property insurer pays for the damage and seeks a contribution from the tenant's liability insurer. Why is contribution not automatically available?

A. The policies insure different interests in the building.

B. The owner's insurer must always bear the whole loss under a property policy.

C. Contribution is available only where both insurers are members of the same insurance group.

D. A liability policy can never respond to property damage caused by fire.

ANSWER: A

Explanation:

Contribution requires the policies to cover the same interest, subject matter and peril. Although both policies may be relevant to fire damage affecting the same building, the owner's property policy protects the owner's interest in the building, whereas the tenant's liability policy protects the tenant against legal liability.

The policies therefore insure different interests. The owner's insurer may have subrogation rights against a tenant who is legally liable for the damage, but that is distinct from an equitable contribution claim between insurers. Contribution cannot be used simply because two policies are connected with the same physical loss.

QUESTION NO: 7

For this question more than 1 option is correct. You must select three correct options to gain the mark.

To succeed in an action for negligence, a claimant must normally establish that the defendant

A. owed the claimant a duty of care.

B. breached the relevant standard of care.

C. caused loss or damage to the claimant.

D. intended to cause the claimant harm.

E. had entered into a contract with the claimant.

ANSWER: A B C

Explanation:

The principal elements of negligence are a duty of care, breach of that duty, and loss caused by the breach. The claimant must show that the defendant owed a duty of care, failed to meet the required standard of care, and caused loss or damage that is not too remote.

Negligence does not require proof that the defendant intended to cause harm. A contract between the parties may give rise to separate contractual rights, but a contract is not an essential element of a negligence action.

QUESTION NO: 8

What is the intended purpose of a subrogation waiver clause in an insurance po

A. The doctrine of subrogation is excluded from the policy.

B. The insured has a duty to ensure that the insurer's subrogation rights are maintained.

C. Cover is suspended whilst the insurer pursues an action for subrogation.

D. The insurer's subrogation rights will not be exercised against certain parties associated with the insured.

ANSWER: D

Explanation:

The insurer's subrogation rights will not be exercised against certain parties associated with the insured. Subrogation is the insurer's right, after it has indemnified its policyholder for a covered loss, to pursue any recovery that the policyholder could have obtained from a responsible third party. A waiver of subrogation is a contractual agreement that restricts this right in relation to specified parties, commonly including group companies, landlords, tenants, customers, contractors or other parties with whom the insured has an ongoing commercial relationship. Its purpose is to ensure that an insured loss does not lead to the insurer seeking reimbursement from one of those protected parties. This can be important where the parties have agreed in advance that insurance, rather than inter-party litigation, will bear the financial consequences of particular losses. The scope of the waiver depends on the policy wording or endorsement and the identified parties; it does not remove the insurer's recovery rights more widely than the agreed waiver. The underlying subrogation principle is reflected in section 79 of the Marine Insurance Act 1906, which provides that an insurer is entitled to take over the assured's rights and remedies after paying a total loss: Marine Insurance Act 1906, section 79. For a judicial discussion of insurers' recovery rights, see RSA v T&N Ltd [2022] UKSC 38.

QUESTION NO: 9

For this question more than 1 option is correct. You must select two correct options to gain the mark.

An insurer seeks to rely on an exclusion in a commercial insurance contract. In which circumstances is the exclusion most likely to have been incorporated into the contract?

A. The exclusion was clearly brought to the insured's attention before the contract was concluded.

B. The exclusion featured in a consistent and regular course of previous dealings between the parties.

C. The exclusion first appeared in a policy document sent after the contract was concluded.

D. The exclusion was retained solely in the insurer's internal underwriting file.

ANSWER: A B

Explanation:

An exclusion may be incorporated where the insurer gave the insured reasonable notice of the term before, or at the time, the contract was concluded. It may also be incorporated through a consistent and regular course of previous dealings between the same parties, where those dealings objectively establish that the term forms part of their agreements.

Simply sending a policy document containing a new exclusion after cover has already been concluded will not normally incorporate it without the insured's agreement. A term that was neither communicated nor established through prior dealings cannot ordinarily be relied on.