



*The*  
**Insurance Institute**  
*Of Ireland*

PROMOTING PROFESSIONALISM SINCE 1885

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# INSURANCE LAW (with reference to Irish law and practice)

## Syllabus for the IP05

**Objective:** To develop in the candidate:

- a knowledge and understanding of the laws which form a background to the operation of insurance;
- a knowledge and understanding of the system within which these laws operate;
- the ability to apply knowledge and skills to simple situations.

### 1. The Irish Legal System

#### 1.1 Classification of law

Candidates should be able to:

- state how laws are classified;
- distinguish between public and private, criminal and civil law.

#### 1.2 The legal system

Candidates should be able to:

- describe the characteristics of the Irish legal system.

#### 1.3 Sources of law

Candidates should be able to:

- outline the development of various sources of Irish law, including:
  - common law;
  - equity and custom;
  - legislation.

#### 1.4 Legislation

Candidates should be able to:

- describe delegated legislation and statutory interpretation.

#### 1.5 Common Law Precedent in Irish Law

Candidates should be able to:

- discuss the development of Irish Law; including its Constitutional basis.

## **1.6 Law Reports**

Candidates should be familiar with:

- a law report and its structure.

## **1.7 The Irish Courts System**

Candidates should be able to:

- identify the various kinds of legal personnel;
- describe their function and role in the legal system.

## **1.8 Procedure in Civil Cases**

Candidates should be able to:

- describe the basic elements of civil procedure.

## **1.9 Interpretation of Law**

Candidates should be able to:

- Understand and be aware of the challenges to the meaning of a particular written law.

## **2. Legal personality**

### **2.1 Status and capacity**

Candidates should be able to:

- explain the status and capacity of natural legal persons and corporations.

### **2.2 Distinctions between a registered company and a partnership**

Candidates should be able to:

- distinguish between the requirements of a registered company and a partnership.

### **2.3 Corporations and unincorporated associations**

Candidates should be able to:

- describe and compare corporations and unincorporated associations;
- apply the above to an insurance context.

## **3. The law of tort**

### **3.1 Nature and classification**

Candidates should be able to:

- explain the nature of a tort;
- explain how torts are classified.

### **3.2 Main torts**

Candidates should be able to:

- describe the characteristics of the main torts;
- describe the principles governing the main torts.

### **3.3 Commonly insured liabilities**

Candidates should be able to:

- describe the nature of the following commonly insured liabilities:
  - breach of statutory duty;
  - employers' liability;
  - defective and dangerous products;

- defective and dangerous premises;
- occupier's liability;
- explain the effect of a breach of the above;
- explain the remedies available for a breach of the above.

### **3.4 Defences**

Candidates should be able to:

- explain the main defences in tort;
- discuss the impact of contributory negligence.

### **3.5 Limitation of actions**

Candidates should be able to:

- describe the limitation of actions in tort;
- explain the relevant periods applicable to contract and tort.

### **3.6 Remedies**

Candidates should be able to:

- describe the main remedies in tort.

### **3.7 Damages**

Candidates should be able to:

- explain the classification of damages and recoverable damages.

## **4. The law of contract**

### **4.1 Contractual liability and classification of contracts**

Candidates should be able to:

- explain the nature of contractual liability;
- explain how contracts are classified.

### **4.2 Formation**

Candidates should be able to:

- identify the rules governing the formation of a contract.

### **4.3 Classification of contract terms**

Candidates should be able to:

- describe how contract terms are classified.

### **4.4 Validity**

Candidates should be able to:

- describe the elements which affect the validity of contracts.

### **4.5 Discharge**

Candidates should be able to:

explain the circumstances in which a contract may be discharged.

### **4.6 Breach**

Candidates should be able to:

- describe the remedies for breach of contract.

#### **4.7 Privity**

Candidates should be able to:

- explain the doctrine of privity of contract.

#### **4.8 Assignment of contractual rights and duties**

Candidates should be able to:

- state the basic principles of assignment of contractual rights and duties.

### **5. Agency**

#### **5.1 Nature of agency**

Candidates should be able to:

- explain the nature of agency.

#### **5.2 Agents, principals and third parties**

Candidates should be able to:

- describe the relationships between agents, principals and third parties.

#### **5.3 Creation of agency**

Candidates should be able to:

- describe the creation of agency.

#### **5.4 Rights and responsibilities**

Candidates should be able to:

- discuss the nature of an agent's rights;
- describe the nature of an agent's responsibilities;
- describe the nature of an agent's authority;
- describe the nature of an agent's duties.

#### **5.5 Termination**

Candidates should be able to:

- explain the termination of agency;
- explain the effects of termination.

#### **5.6 The law of agency and insurance**

Candidates should be able to:

- apply the law of agency to insurance.

### **6. Insurable Interest**

#### **6.1 Insurable Interest**

Candidates should be able to:

- Understand the concept of insurable interest.

#### **6.2 Development of the law of insurable interest**

Candidates should be able to:

- Distinguish between insurance and gambling agreements.

#### **6.3 Creation of Insurable Interest**

- explain the common features of insurable interest.

## **6.4 Application of insurable interest**

- apply the principle of insurable interest to the major types of insurance and reinsurance.

## **7. Utmost good faith**

### **7.1 Misrepresentation**

Candidates should be able to:

- distinguish between misrepresentation and non-disclosure.

### **7.2 Duty of Disclosure**

Candidates should be able to:

- explain the duty of disclosure.

### **7.3 Breach of good faith**

Candidates should be able to:

- describe the forms which breach of duty of good faith may take and explain the remedies available;
- understand the effects of legislation and voluntary codes of practice on the duty of good faith.

## **8. Warranties, Terms, Void Insurance Contracts and Assignment**

### **8.1 Warranties and other terms**

Candidates should be able to:

- understand warranties and other terms of insurance contracts;
- explain how warranties are made and describe the effect of a breach of warranty or other term.

### **8.2 Void insurance contracts**

Candidates should be able to:

- distinguish between void and voidable insurance contracts.

### **8.3 Assignment and Contract**

Candidates should be able to:

- understand the rules which govern the assignment of insurance contracts.

## **9. Making the Claim**

### **9.1 who can claim on an insurance policy**

Candidates should be able to:

- describe who can enforce an insurance contract and who can benefit under it.

### **9.2 Notice and proof of loss**

Candidates should be able to:

- explain the rules governing notice and proof of loss.

### **9.3 Construction of insurance contracts**

Candidates should be able to:

- explain the main rules governing the interpretation of insurance contracts.

### **9.4 Causation**

Candidates should be able to:

- discuss the doctrine of proximate cause and the effect on its operation of specific policy wordings.

## **10. Measuring the Loss: The Principle of Indemnity**

### **10.1 Meaning of Indemnity**

Candidates should be able to:

- explain the principle of indemnity;
- explain the methods of providing an indemnity.

### **10.2 Measure of Indemnity**

Candidates should be able to:

- explain the measure of indemnity under the main forms of insurance policy.

### **10.3 Variations in the principle of indemnity**

- discuss the factors which limit, reduce, extend or modify the principle of indemnity.

### **10.4 Method of providing indemnity**

- explain the methods of providing an indemnity.

### **10.5 Salvage and abandonment**

Candidates should be able to:

- explain the doctrine of salvage and abandonment.

## **11. Subrogation and contribution**

### **11.1 Subrogation**

Candidates should be able to:

- explain the principle of subrogation as a corollary of indemnity;
- explain how subrogation operates;
- apply the principle of subrogation to basic insurance situations.

### **11.2 Source of subrogation rights**

Candidates should be able to:

- identify the source of subrogation rights.

### **11.3 Modification of subrogation rights**

Candidates should be able to:

- explain how subrogation rights may be modified.

### **11.4 Double insurance and contribution**

Candidates should be able to:

- explain the nature of double insurance and contribution.

### **11.5 Contribution and common law**

Candidates should be able to:

- explain how contribution arises at common law;
- describe the operation of contribution at common law.

### **11.6 Common contribution conditions**

Candidates should be able to:

- describe the effect of common contribution conditions.

### **11.7 Basis of contribution**

Candidates should be able to:

- explain the maximum liability and independent liability methods of contribution.

### **11.8 Application of contribution**

Candidates should be able to:

- apply the principle of contribution to insurance.

### **11.9 Market agreements**

Candidates should be able to:

- describe the effect of market agreements on the principles of subrogation and contribution.