

LW6111E: INSURANCE LAW

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

Insurance Law

Subject Code

LW - Law

Course Number

6111E

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

Nil

Exclusive Courses

Nil

Part II Course Details

Abstract

This course aims to introduce students to basic principles of insurance law and how the insurance industry is operated, along with explore duties and liabilities of key players in the insurance industry, namely insurers or underwriters, brokers, and assureds. With many types of insurance available in the industry, this course will focus on commercial insurances.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Analyse relevant legal materials, including statutes, case law and standard form of insurance contracts.		x	x	
2	Identify and explain the main commercial and political policies and values underpinning the law relating to insurance.		x	x	
3	Apply insurance law principles and authorities to solve complex factual problems.		x	x	x
4	Draft legal advice based on complex factual problems		x	x	x
5	Appraise and critically evaluate existing debates on insurance law in UK and Hong Kong.		x	x	
6	Display clarity and objectivity in written and oral interactions and communications.		x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs		Brief Description	CILO No.	Hours/week (if applicable)
1	Discussion	Discussion of insurance contracts including issues of warranties, insurable interests, good faith, and the characteristics of the different types of insurance.	1	3
2	Discussion	Discussion of key legal and policy issues in their particular context.	2	

3	Case study	Case study of complex factual scenarios with reference to the relevant legal principles and authorities.	3	
4	Demonstration	Demonstration of specific skills to provide legal advice to clients based upon analysis of factual scenarios.	4	
5	Discussion	Discussion of existing areas of debate about what the law is and ought to be in England and Hong Kong.	5	

Continuous Assessment (%)

0

Examination (%)

100

Examination Duration (Hours)

3

Additional Information for ATs

The use of Generative AI tools is not allowed.

Applicable to students admitted from Semester A 2022/23 to Summer Term 2024

Students must obtain an overall mark of 50% or above in examination in order to pass the course.

Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter

Students must obtain an overall mark of 40% or above in examination in order to pass the course.

When University facilities and resources are available, students are required to take a computer-based examination in computer labs. During the examination, students are blocked from access to files, programme and the Internet

Assessment Rubrics (AR)**Assessment Task**

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of a good understanding of relevant statutes, cases, doctrines and concepts, and an ability to use these to solve complex legal problems.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of a good understanding of relevant statutes, cases, doctrines and concepts, and an ability to use these to solve complex legal problems.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

Insurance contracts, Insurable interest, Good Faith, Warranties, Premiums and intermediaries, Risks and loss, Insurance claims, Subrogation, Contribution and double insurance

Detailed Syllabus

Insurance contracts

Insurance contracts are subject to the general law of contract. However, some special rules apply to them. This course sets out an overview of the legal principles which govern insurance contracts.

Insurable interest

It is a characteristic of insurance contracts that the insured person is required to have an insurable interest. This is required by both common law and statute, namely the MIA 1906.

Good faith/fair presentation

Insurance contracts are based on the legal principle of uberrimae fides, which means "of the utmost good faith" (section 17, MIA 1906). The Insurance Act 2015 came into force on 12 August 2016. It significantly reformed insurance contract law in relation to misrepresentation and non-disclosure.

Warranties

The purpose of warranties is to circumscribe risk. In broad terms, warranties may be thought of as conditions precedent to cover (section 33(1), MIA 1906). The 2015 Act changed the law of warranties in relation to business and consumer insureds.

Claims under policy

An insurer will be liable to pay a proved claim, unless it has a valid defence to all or part of the claim. The insured must prove on a balance of probabilities the amount and extent of its loss. The insured must also prove, on a balance of probabilities, that its loss was caused by a peril insured under the policy.

It is well established that an insured will not recover a fraudulent claim. Before the 2015 Act came into force, the remedies available to insurers when faced with a fraudulent claim were unclear. The Insurance Act 2015 introduced new rules meant to discourage fraud.

Subrogation

Where an insurer has paid out money to an insured under an indemnity insurance policy, the common law rules on subrogation enable the insurer to recoup all or some of that money from a third party who caused or contributed to the loss.

Double insurance

Double insurance occurs when an insured has insurance cover in respect of the same risk and subject matter from more than one insurer.

Insurance and rights of third parties

The common law rule of privity of contract provides that no one may enforce all or part of a contract to which it is not a party. However, there are some exceptions to this principle and in some cases a third party may benefit from the contract between an insured and its insurer.

Reading List

Compulsory Readings

Title	
1	Nil

Additional Readings

Title	
1	Books:
2	John Birds, <i>Birds' Modern Insurance Law</i> (10th edn, Sweet & Maxwell 2016)
3	Robert Merkin, <i>Colinvaux's Law of Insurance in Hong Kong</i> (2nd edn, Sweet & Maxwell 2012)
4	John Lowry, P J Rawlings, Robert Merkin, <i>Insurance Law: Doctrines and Principles</i> (3rd edn, Hart Publishing 2011)
5	Malcolm Clarke; Baris Soyer, <i>The Insurance Act 2015: A New Regime for Commercial and Marine Insurance Law</i> , (Informa Law from Routledge 2016)
6	Journals:
7	Lloyd's Maritime & Commercial Law Quarterly
8	The Journal of Business Law
9	Insurance Law Journal
10	International Insurance Law Review