Law of Insurance  
LL4407/LL5407/LL6407  

Semester I of Academic Year 2016-2017  

General Information  

Module Lecturer and Convenor:  
Yeo Hwee Ying  

Workload: 6 hours per week (in one semester comprising 13 teaching weeks).  

2. Module Objectives  

- To help students acquire a sound critical knowledge of the law governing insurance generally, and appreciate the economic and social setting underpinning these rules. Students are to evaluate the existing rules, ascertain deficiencies of the law and consider possible arguments and proposals for improvement and reforms. (To this end, some appreciation of comparative jurisdictions will be undertaken.)  

- To help students appreciate the theoretical underpinnings of the important insurance doctrines, the over-arching themes and underlying tensions in the entire sphere of insurance law and the practical operation of the industry, which at times lead to a divergence between law and practice.  

- To help students appreciate the concepts of risk management, the protection of commercial businesses assets and the protection of individual lives and assets against unforeseen contingencies and losses that may arise.  

- To help students consider the statutory regulatory regime, government supervision, legal regulation of intermediaries and the insurance industry, industry self-regulatory framework and issues of consumer protection.  

At the end of the course, students should be in a position to advise on the validity of claims under a policy. Students should also be familiar with the techniques of claiming under the policy and resisting the insurer’s denial of claims. In the final analysis, when there is no obvious solution to
a given problem or scenario, students should be able to reason from first principles, drawing on
their general understanding of not only the rules but also underpinning theories and rationales,
evolving doctrines and controversies in order to arrive at a defensible and reasoned solution.

3. Teaching Objectives and Methodology

The course will be taught via lectures and seminars. The aim of these classes is to provide
students with the general principles of insurance law which they are expected to build upon.
Students are to participate actively in classes and to prepare for seminars by reading and
analysing the cases for each seminar. They are expected to discuss the problems presented and
arrive at their own independent conclusions.

4. Assessment Format

A final open-book examination (written paper comprising 60% of the final grade), as well as
class performance, presentation and assignment (40% of the final grade).

5. Course Outline

Introduction and Description of Insurance Contracts

- Some Basic Insurance Concepts and General Overview
- Nature, Purpose and Function of Insurance Law
- Basic Insurance Theory
- Legal Definition of Insurance and Risk Concept
- Some Classifications of Insurance
- Historical Development and Scope
- Lloyd’s Underwriting
- Insurance Market Place
- Reception of English Insurance Law
- Institutional Framework: Regulation of Insurance business, Government Supervision
- Industry Self-regulatory Framework and Alternative Dispute Resolution – FIDREC

Insurance Contract Transactions and Formation

- Documents used in Insurance and their Contents
- Formation of Insurance Contract, Commencement of Risk
- Formalities – Proposal Form, Contracting, Offer, Acceptance and Premiums
- Terms of Agreement
- Underwriting Process: Consideration of Moral/Physical Hazards, Surveys and Medical
  Reports
- Interim Insurance – Cover Notes and Binders
- Renewals, Duty of Disclosure
- Commercial versus Consumer contracts
Legal Principles Affecting Insurance

- Insurable Interest
- Utmost Good Faith
- Warranties and Terms
- Doctrine of Proximate Cause
- Indemnity
- Subrogation
- Contribution

Nature of General Insurance and Insurable Interest

- When is insurance allowed? Requirement of Insurable Interest
- Indemnity versus Contingency Policies
- Insurable Interest in Life Policies
- Insurable Interest in Indemnity Policies
- Arguments and Proposals for Law Reform

Vitiated Contracts: Fraud, Misrepresentation and Non-Disclosure

- Fraud
- Misrepresentation
- Duty of Disclosure and Acting with Utmost Good Faith
- Its Rationale and Theory
- Scope of Duty of Utmost Good Faith / Content and Test
- Requirement of Inducement
- Examples of Material Facts
- Circumstances not requiring Disclosure
- Disclosure during Contract
- Reciprocity of Duty of Disclosure – Insurer’s Duty
- Return of Premiums
- Post-contractual Duty and Fraud
- Remedy/Remedies for Breach of Duty of Good Faith
- Modification of Duties – Self-regulation
- Law Reform

Risk Management (Warranties and Terms)

- Role and Operation of Terms and Conditions
- Standard Form Contracting
- Warranties and Proposal Forms
- Nature and Effect of Breach of Warranty
- Interpretation of Warranty
- Exceptions
- Terms and Contractual Techniques of Discharge
- Concept of taking Reasonable Care
• Law Reform

• **Law Reform and Comparative Jurisdictions**
  - Ongoing Projects on Review of Insurance Law in England, Scotland and Wales:
    - Law Com No 353, Scot Law Com No 238 – Insurance Contract Law: Business Disclosure, Warranties, Insurers’ Remedies for Fraudulent Claims; and Late Payment (2014)
  - **UK: The Consumer Insurance (Disclosure and Representations) Act 2012 (wef. 6 April 2013)**
  - Australian Insurance Contracts Amendment Act 2013 (28 June 2013)
  - Proportionality in Continental Europe

**Intermediaries and their Regulation**

• The Need for Intermediaries
• Regulation under Insurance Act and Financial Advisers Act 2001 (Cap. 110)
• Contemporary Insurance and Financial Products
• Significance of Relevant Agency Principles
• Agent of Insurer or Insured
• Agent’s Duties
• Broker’s Duties to Insured
• Remedies for Breach of Duties
• Code of Conduct
• Law Reform

**Claims under the Policy**

• Policy Interpretation, Court’s Approach – Legal Principles of Construction
• Principles of Causation
• Application of Proximate Cause Doctrine
• Public Policy and Principles of Illegality
• Claims Procedure
• Duty to Co-operate
• Fraudulent Claims
• Settlement of Claims
• Mistakes
The relevant statutes will be indicated in the detailed syllabus.

Textbooks
Introductory:


Basic Textbooks:

Poh Chu Chai, General Insurance Law (2009)

Tan Lee Meng, Insurance Law in Singapore (2nd Ed., 1997)

Birds and Hird, Modern Insurance Law (9th Ed., 2013)

The above basic textbooks should be available for sale at the NUS Co-operative.

Others:


Further Reading:


MacGillivray on Insurance Law: relating to all risks other than marine (12th Ed., 2012). (Redspot)

Merkin, Colinvaux’s Law of Insurance (9th Ed., 2010). (Redspot)

Colinvaux and Merkin's Insurance Contract Law (Looseleaf), including rewriting of Colinvaux’s Law of Insurance (9th Ed, 2010) and Merkin’s Insurance Contract Law

7. Journals and Reports

Local cases reported in SLR and MLJ are readily available on Lawnet, Lexis-Nexis. The main series of Law Reports in England gives access to most cases in this subject. Do take note of some insurance cases which may be reported only in Lloyd’s Reports. Also note that Lloyd’s Reports Insurance and Reinsurance (cited Lloyd’s Rep IR) was previously Lloyd’s Reinsurance Law Reports (cited LRLR) and contains a mixture of insurance and reinsurance cases. Many of these cases are also available on Lexis-Nexis and Westlaw.
Articles of interest in local and international journals will be highlighted when appropriate. Journal articles may provide considerable assistance with the seminars.

8. Cases and Materials

Both the Law Faculty and Law Library have gone through great effort and expense to make available to all students Lexis and Westlaw resources. Students are thus strenuously encouraged to tap into these electronic resources to obtain their cases. Materials which are readily available electronically may no longer be duplicated in hard copies to be given out to students.

9. Useful Websites

Below is a list of web-links which might prove helpful for students intending to pursue independent research or broaden their understanding of the subject:

- Life Insurance Association of Singapore
- General Insurance Association of Singapore
- Financial Industry Disputes Resolution Centre Ltd (FIDReC)
- Monetary Association of Singapore
  [www.mas.gov.sg](http://www.mas.gov.sg)
- Supreme Court
- Attorney-General’s Chambers
- British and Irish Legal Information Institute (BAILII)
  [http://www.bailii.org](http://www.bailii.org)

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2016