

C49 INSURANCE AGAINST LIABILITY – PART 2

IMPORTANT

The time allowed for this exam is 3 hours.

Total marks: 200

You must hand in this paper and any paper used for rough work to the supervisor when you leave the examination room. Failure to do so may result in disqualification.

Section A: Multiple-Choice Questions

Question 1. For the following multiple-choice questions, fill in the circle of the letter that identifies the most correct answer.

Example: (A) (B) ● (D)

<p>DO NOT MARK THE ANSWERS ON THESE PAGES.</p> <hr/> <p>USE THE FIRST PAGE OF YOUR ANSWER BOOK.</p>

- Under the law, directors and officers
 - are protected from liability for irrational decisions under the “business judgment rule.”
 - must generally act with a higher standard of care than that of a reasonably prudent person.
 - must demonstrate a high level of business acumen when making business decisions.
 - may be subject to actions by government entities arising from their actions.
- A drawback of a claims-made policy from an insured’s perspective is that
 - claims against the insured, reported during term, but which occurred prior to the policy are always excluded.
 - coverage is much more limited than an occurrence-based policy.
 - insureds cannot be certain of the continuity of coverage.
 - claims-made policies include a condition for an extended reporting period.

3. The late reporting component that is part of the IBNR factor used in liability rate making is commonly referred to as
 - (A) due diligence.
 - (B) long-tail liability.
 - (C) non-admitted negligence.
 - (D) finite risk gaps.

4. Select the statement that can be said of both occurrence and claims-made C.G.L. liability forms.
 - (A) The coverage is usually primary except in certain defined situations.
 - (B) The claim reported date is not the coverage trigger.
 - (C) Late reporting that prejudices the insurer's position may invalidate policy cover.
 - (D) Notice of an event that may possibly give rise to a claim is not notice of a claim.

5. The Incurred but not Reported factor should be considered when
 - (A) setting the reserve on a newly reported claim.
 - (B) reviewing a new business submission.
 - (C) forecasting a ratio for uncollectible premiums.
 - (D) developing earned to unearned premium ratios.

6. With respect to defence costs and excess liability policies,
 - (A) when there is no coverage for a claim under the primary policy, excess policies provide for the cost of defending an action.
 - (B) excess policies may include the same duties to defend as a primary policy.
 - (C) primary and excess policies share the cost of defence equally.
 - (D) excess policies generally are not expected to provide coverage.

7. Umbrella policies generally offer broader coverage than the primary policies in the area of
 - (A) advertising activities of the insured.
 - (B) environmental liability.
 - (C) personal injury.
 - (D) employees' liability.

8. A self-insured retention is
 - (A) the portion of every loss that the insured is responsible for, similar to a deductible.
 - (B) the extent the insured is at risk should an underlying policy be cancelled prior to expiry.
 - (C) the amount by which the limit of insurance available is reduced should the excess policy be activated.
 - (D) the amount payable by the insured where the drop-down feature has been activated.

9. The time within which, theoretically, all claims for a particular policy will have been reported is known as the
- (A) extended reporting period.
 - (B) long-tail liability stretch.
 - (C) IBNR extension.
 - (D) gestation period.
10. The following is a typical exclusion found in advertising liability policies.
- (A) Oral or written material that slanders a person
 - (B) Publication of material which the insured knows to be false
 - (C) Publication of material that violates a person's right of privacy
 - (D) Idea misappropriation under an implied contract
11. Which of the following generally establishes sufficient reason to dismiss an employee?
- (A) Behaviour inappropriate to corporation goals and objectives
 - (B) General dissatisfaction with the employee
 - (C) A failure to meet production levels or sales goals
 - (D) Insubordination
12. The amount of notice an employer must reasonably give to terminate an employee depends on many factors including
- (A) whether an employee was enticed from a secure position.
 - (B) the general dissatisfaction with the employee.
 - (C) the degree to which the employee was not meeting production levels or goals.
 - (D) the general availability of employment.
13. A breach of an implied contract that could result in an allegation of wrongful dismissal includes
- (A) forced relocation of premises.
 - (B) non-renewal of a contract with a defined expiry date.
 - (C) compelling an employee to break the law.
 - (D) refusing to pay an employee a bonus earned.
14. As environmental regulations have evolved,
- (A) strong and consistent national standards have established a more focused approach across the country.
 - (B) standards are becoming stricter and are better enforced as the costs for control are passed to the private sector.
 - (C) nuisance has emerged as the principal mechanism by which environmental clean-up is enforced.
 - (D) greater care is being taken, as laws are amended, to ensure there is consensus between private industry and governments.

15. While there is no standard form, advertising liability generally responds for injury other than bodily injury or personal injury arising from an insured's advertising, promotional or publicity activities, including
- (A) piracy, unfair competition, idea misappropriation under an implied contract, or infringement of copyright, title or slogan.
 - (B) incorrect description or mistake in the advertised price of goods or services.
 - (C) that for which the insured has assumed liability under a contract or agreement, infringement of a registered trademark or other infringement.
 - (D) wilful violation of a penal statute or ordinance committed by (or with the consent of) the insured.
16. The goal of the ISO 14000 series is
- (A) to identify past and present site owners and operators, waste generators and transporters so that clean-up costs for contamination can be imposed on them.
 - (B) the harmonization of legislation and the creation of national standards, rules and regulations and enforcement and compliance of environmental issues.
 - (C) to protect human health and the natural environment by applying systematic management principles to environmental issues.
 - (D) the promotion of public participation in environmental decision-making and access to the courts for private citizens.
17. According to the Canadian Standards Association, an Environmental Site Assessment that involves gathering and assessing samples to identify the source and extent of contamination is a
- (A) Phase I ESA.
 - (B) Phase II ESA.
 - (C) Phase III ESA.
 - (D) Phase IV ESA.
18. Professional associations often
- (A) act solely as consumer advocates regarding the quality of service expected and educate consumers as to their rights.
 - (B) enact codes of professional conduct to define the ethical obligations of their practitioners.
 - (C) apply pressure to members not meeting the standards, but do not have the authority to discipline them.
 - (D) determine the standard of performance for which the courts will hold its members accountable.
19. A basic environmental audit involves
- (A) gathering soil samples to identify and quantify contamination.
 - (B) remediation.
 - (C) a systematic obtaining and evaluating of evidence by auditors and assessors.
 - (D) determining probable effects of contamination.

20. The decision rendered in *Fletcher v. Manitoba* is important in defining the duty owed by insurance agents and brokers to their clients because it
- (A) held that brokers and agents have a stringent duty to provide both information and advice to their customers.
 - (B) expanded the duty of care to those an agent or broker should reasonably have foreseen as relying on his or her special body of knowledge.
 - (C) gave professional status to agents and brokers who provide a certain level of specialized service apart from professional in the traditional sense.
 - (D) it extended the “know your client” rule standard of care to brokers and agents.
21. The standard of care each profession owes to its clients can usually be guided by the
- (A) range of services provided by the profession.
 - (B) consumer expectations regarding the quality of service expected.
 - (C) knowledge, skill, and experience of the person performing the service.
 - (D) code of conduct developed by the association representing the profession.
22. When obtaining informed consent from a patient, a doctor must disclose details of a proposed procedure and review any negative outcomes. Which of the following would require the greatest level of disclosure?
- (A) An adverse outcome to a medical procedure is highly improbable, but the result would be serious.
 - (B) The anticipated outcome of a medical procedure is reasonable success.
 - (C) The procedure being recommended is experimental.
 - (D) All treatment and procedures that may result in some adverse outcome carry the same degree of disclosure.
23. Most professional liability policies
- (A) contain an automatic reinstatement clause.
 - (B) are written on a claims-made basis.
 - (C) are designed to protect liability exposures from bodily injury arising from the rendering of or failing to render professional services.
 - (D) are designed to protect liability exposures from property damage arising from the rendering of or failing to render professional services.
24. A policy feature offered by some professional liability policies is **first dollar defence**. This feature provides that
- (A) necessary legal protection against any probable liability exposures will be available.
 - (B) defence costs are not subject to the policy limits of insurance.
 - (C) defence for prior acts coverage will be available.
 - (D) the deductible does not apply to defence costs.

25. A shareholder may be successful in a suit against a director or officer for a decision that is responsible for lack of growth, or falling dividends if it can be proved that
- (A) another decision would have been better.
 - (B) the decision was irrational.
 - (C) not all prudent people would not have made the same decision.
 - (D) the person making the decision knew there was a degree of risk involved.
26. A director or officer of a non-profit organization can be personally held responsible for such claims as
- (A) falling dividends.
 - (B) anti-trust violations.
 - (C) refusing to allow an individual to do volunteer work for the organization.
 - (D) wrongful dismissal.
27. A typical exclusion found on a fiduciary liability policy is
- (A) failure to fund a plan adequately.
 - (B) improper choice of financial advisors.
 - (C) failure to disclose important details to plan members.
 - (D) failure to collect the required money from employees to fund the plans.
28. Underwriting a directors' and officers' liability policy requires an analysis in several areas including a risk's standing in the industry. This industry standing would involve a review of
- (A) the latest financial report and current financial analytical report.
 - (B) what the company is noted for, its products, and its level of acceptability by the public.
 - (C) the suitability of management from the standpoint of educational and occupational background.
 - (D) any history of stockholder litigation, fights for control or excessive management changes.
29. Corporations write into their by-laws extremely broad indemnification clauses to
- (A) protect the company shareholders.
 - (B) attract qualified board members.
 - (C) compensate board members for their time.
 - (D) guarantee the survival of the corporation should catastrophic loss occur.
30. Wrap-up liability insurance is primarily designed to
- (A) insure hard to cover perils such as flood and earthquake.
 - (B) insure commercial construction jobs.
 - (C) provide increased limits of coverage to the underlying liability policy.
 - (D) provide coverage when the primary policy does not cover the accident.
31. Underwriting standards for wrap-up liability
- (A) allow an underwriter to use a great deal of discretion in accepting risks.
 - (B) depend more on underwriting judgment and experience than on formalized guidelines.
 - (C) are generally quite strict because of the broad coverage provided.
 - (D) are routine, although the policy is written by few insurers.

32. When the insurer of a contractor chooses not to issue a wrap-up liability policy, a difference in limits policy may be used to
- (A) increase the available amount of liability.
 - (B) provide broader coverage than a contractor's primary policy.
 - (C) provide broader coverage and increase the available limits.
 - (D) increase the available limits on those liability limits subject to an aggregate limit.
33. An insurer's duty to defend a liability claim
- (A) automatically arises when a lawsuit is filed against the insured.
 - (B) should be determined by defence counsel appointed by the insurer.
 - (C) is triggered by allegations of the third party, that if proven, would fall within coverage.
 - (D) is not triggered if some of the allegations made by the third party fall outside of coverage.
34. The three factors in setting the rate for a wrap-up liability policy are a
- (A) base rate, a surcharge for forfeiting the possibility of subrogation, and a surcharge for a separate aggregate limit per project.
 - (B) base rate based on prior claims, a surcharge for the high expense factor and a loading for profit.
 - (C) base rate, a surcharge for the inherently high loss exposure, and a loading for commission.
 - (D) base rate, a credit or debit for loss control practices, and a loading for overhead and handling.
35. While the C.G.L. wording mainly covers Canada and the U.S., one of the territorial extensions to coverage is
- (A) goods manufactured in another country and sold in Canada or the U.S.
 - (B) for salespeople domiciled outside the basic territory coverage provided such employees do not exceed a stated percentage of all employees.
 - (C) to offices maintained in other countries provided no goods are produced at that location.
 - (D) a civil proceeding in Canada or the U.S. despite the actual event having occurred outside the basic territory covered.
36. A captive pool is formed
- (A) by unrelated parties to provide facilities to others for a fee.
 - (B) by members of a common industry or trade association to share risks of that industry pool among its members.
 - (C) to provide capacity where insurance coverage has never been available or is no longer available at a reasonable price.
 - (D) for the exchange of insurance business among captives in order to spread and diversify their risks by participating in non-related business.

37. An options derivative is
- (A) the right to buy or sell the underlying asset at an agreed price on or before the maturity date of the contract.
 - (B) a contract that requires that the purchaser acquire the asset at an agreed price when the contract matures.
 - (C) an obligation to purchase a specified asset when it matures at an agreed price, but is an exchange-traded contract with a reduced risk of default.
 - (D) an exchange of cash flows between purchaser and seller at specified intervals during an agreed period of time.
38. A large transportation company decides to retain its automobile risk. Because of compulsory liability laws it must have proof of insurance by a licensed insurer. It enters an agreement with an insurer whereby the insurer issues a policy and then transfers the risk back to the transportation company by contract. This is an example of a
- (A) derivative.
 - (B) rent-a-captive.
 - (C) reciprocal agreement.
 - (D) fronting arrangement.
39. A derivative that requires the purchaser to acquire a specified asset when it matures at an agreed price is
- (A) a forward contract.
 - (B) a reverse option.
 - (C) swap.
 - (D) an option.
40. Prospective finite risk insurance programs
- (A) transfer the financial responsibilities of known losses over a specific period of time.
 - (B) negotiate premium after the loss and permit the removal of liabilities from the company's balance sheet.
 - (C) lock in capacity and coverage in a flexible way and return a portion of the premium at the end of the term if the loss experience has been good.
 - (D) allow an organization to transfer the financial responsibilities of payment of known or unknown losses but does not actually transfer risk.

(2 marks each = 80 marks)

Section B: Narrative Questions

- Question 2. (a) Define **IBNR** and describe how it affects how insurers report their financial standing. (5 marks)
- (b) How do occurrence-based liability policies differ from claims-made policies in their response to claims situations? (5 marks)
- (c) What must an insured do to purchase the Extended Reporting Period Endorsement? (3 marks)
- (d) What are the provisions of the Extended Reporting Period Endorsement? (7 marks)
- Question 3. (a) You are an underwriter and you have been asked to insure the directors and officers of a large corporation. Identify and briefly explain the areas of the operation you should analyze in assessing the risk. (12 marks)
- (b) Explain the need for and features of an indemnification clause in a corporation's by-laws. (8 marks)
- Question 4. Fully describe the advantages of Wrap-up Liability insurance. (20 marks)
- Question 5. (a) Discuss the complications that may arise out of an insurer's duty to defend under a liability policy. (7 marks)
- (b) What is the function of specialized consulting firms engaged in insurance archaeology? (3 marks)
- (c) Compare facultative and treaty reinsurance. (10 marks)
- Question 6. Briefly describe TEN (10) factors to be considered when underwriting professional liability insurance. (20 marks)

Section C: Application Question

- Question 7. (a) You are an underwriter. You recently negotiated the renewal of an account that your company has insured for one year. The liability is written on an occurrence basis and the renewal premium is \$10,000. You developed this premium based on \$4,000 in losses in the previous year. You have just learned that there was a property damage loss in the previous term that has just been reported. It appears that it will settle for \$3,000. You wonder if the premium charge for the coverage will be adequate. While it's too late to make changes for the coming term you want to ensure the premium developed for subsequent renewals is adequate. Describe the effect of this information and how you will use it. (10 marks)
- (b) You have been hired to manage a daycare centre that is about to open and you need to hire staff. Your first task is to write an employee handbook. Write the opening statement and the rules regarding acceptable conduct in the presence of children that will reflect management attitudes. (10 marks)

