DGI01 Legal Aspects of Insurance

Module Description:
The aims of this module are to provide an insight into the laws that underpin the operation of insurance; the system within which these laws operate; the principles of insurance contracts; as well as the regulatory structure, laws and regulations governing insurance in Singapore.

Syllabus:
Understand the nature and sources of law and legal systems.

Chapter 1 The legal system
1.1. The legal system
   • the organs of state
   • the functioning of a legal system
1.2. Classification of laws
   • public law and private law
   • criminal law and civil law
1.3. Sources of law
   • the development of various sources of law, including:
     - legislation
     - common law
     - equity
   • the general principles in applying the different sources of law
1.4 Statutory interpretation
   • the traditional and modern approaches used by the Courts when interpreting statutes
1.5 Courts and the system of precedent
   • jurisdiction of Courts
   • the doctrine of Stare Decisis (binding precedent)
1.6 Principal legal personnel and their role in the legal system
   • the various kinds of legal personnel
   • the functions and roles of the different legal personnel in the legal system
1.7 Civil procedure
   • the organisational structure of the Singapore Court system
   • the workings of alternative dispute resolution and case management
   • the main elements of civil procedure in Singapore

Understand the concept of legal personality.

Chapter 2 Legal personality
2.1. Classes of persons
   • the status and capacity of natural persons (including minors, etc.), corporations, statutory boards and the government
2.2. Types of business structures
   • the characteristics, advantages and disadvantages of a sole proprietorship, a partnership, a limited liability partnership, a business trust and a company
2.3. Classification of companies
   • the characteristics of limited and unlimited companies, public and private companies, and exempt private companies
2.4. Co-operative societies and unincorporated associations
   • the characteristics of co-operative societies and unincorporated associations
Understand the principles of the law of tort and the characteristics of the main torts.

Chapter 3 The law of torts

3.1 Introduction to tort
- the nature and classification of torts
- the relationship between tort and other branches of law

3.2 Principles of tort law
- the general principles of tort law
- how tortious liability may arise
- the various defences available to the defendants in a tortious action, including extinction of liability
- the common remedies available to the plaintiff and the principles governing the claim of damages

3.3 Negligence
- the principles of negligence
- some of the commonly insured liabilities that are governed by the tort of negligence, including defective and dangerous products and negligent misstatement

3.4 Employers’ liability
- the ways in which an employer’s liability may arise in law
- vicarious liability and how it applies to an employer
- an employer’s legal responsibility under the following:
  - competent staff and supervision
  - adequate plant and equipment
  - safe place of work
  - safe system of work
- what qualifies as “in the course of employment”

3.5 Breach of statutory duty
- how the tort of breach of statutory duty may arise
- the principles governing statutory duty

3.6 Defective and dangerous premises
- the circumstances where a person would be liable as an occupier
- the occupier’s duty to invitees, licensees, trespassers, independent contractors, sub-contractors and neighbours
- the duty of builders, contractors and professional advisers for defective or dangerous premises

3.7 Trespass
- the definition of trespass
- the three main forms of trespass: trespass to the person, trespass to goods and trespass to land

3.8 Nuisance
- the definition of nuisance
- the main forms of nuisance
- private nuisance and its contrast with public nuisance
- statutory nuisance
- the criminal liability for public nuisance

Understand the law of contract.

Chapter 4 The law of contract

4.1 Contractual liability and classification of contracts
- the nature of contractual liability and classification of contracts
4.2. Formation
   • the rules governing the formation of a contract
4.3. Classification of contract terms
   • how contract terms are classified
4.4. Validity
   • elements which affect the validity of contracts
4.5. Discharge
   • the circumstances in which a contract may be discharged
4.6. Remedies
   • remedies for breach of contract
4.7. Privity of contract
   • the doctrine of privity of contract and the effect of the Contracts (Rights Of Third Parties) Act (Cap. 53B) in Singapore
4.8. Assignment of contractual rights
   • the basic principles of assignment of contractual rights

Understand the main principles governing the formation of insurance contracts.

Chapter 5       The insurance contract
5.1. General principles governing insurance contracts
   • how the general principles of contract law apply to insurance
5.2. Duty of good faith
   • the doctrine of utmost good faith and its relation to insurance contracts
5.3. Duty of disclosure
   • the duty of disclosure in the context of insurance
5.4. Misrepresentation
   • the general principles governing misrepresentation
   • the various types of misrepresentation
   • the remedies for misrepresentation
5.5. Effect of the proposal form
   • the effect and applications of a basis clause
   • the effect of statutory warning in proposal forms
   • the situations where the basis clause is inappropriate
   • the consequence of:
     - ambiguous questions in proposal forms
     - a conflict between a proposal form and a policy
     - unanswered or incomplete answers in proposal forms
5.6. Breach
   • the forms which breach of utmost good faith may take
   • the consequences and remedies available for breach of utmost good faith
5.7. Legislation
   • the effects of legislation on insurance law
5.8. Insurable interest
   • the concept and nature of insurable interest
   • the reasons for insurable interest
   • the application of the doctrine of insurable interest to the main classes of insurance
   • the situations where there is no presumption of insurable interest
5.9. Joint and composite insurance
   • the distinction between joint and composite insurance contracts
5.10. Assignments in relation to insurance
• the application of the principles of assignment specifically to insurance

5.11. Terms in insurance contracts
• how insurance contract terms are classified
• the differences between commonly used insurance contract terms and remedies for breach of them

5.12. Special rules for compulsory insurances
• the special rules that apply to compulsory insurances

Understand void and illegal insurance contracts.

Chapter 6 Void and illegal insurance contracts
6.1. Void and voidable contracts
• the ways in which a contract can be rendered void and voidable
• automatic discharge

6.2. Illegality
• illegality under general contract law and under insurance law

Understand the main legal principles governing the making of an insurance claim, how losses are measured and how the principle of indemnity applies to insurance claims.

Chapter 7 Insurance claims
7.1. Notice of loss
• the rules governing notice and the time of notification

7.2. Effects of failure to comply with the notification clause

7.3. When it is necessary to give notice of loss
• the significance of the wordings of the notification clause
• the perspective which the court should take in determining whether a notice of loss is required

7.4. Proof of loss
• the significance of the insuring clause in proving loss
• the legal position regarding the recovery of lost items
• the burden of proving loss

7.5. Proximate cause
• the doctrine of proximate cause
• how the wordings of policies may affect the proximate cause of an event

7.6. Continuing duty of good faith
• the characteristics and types of fraudulent claims
• state the consequence of fraudulent claims

7.7. Waiver
• the steps that constitute a waiver
• the effects of the above in an insurance context

7.8. Indemnity
• the principle of indemnity
• factors which limit, reduce, extend or modify the principle of indemnity
• the basis of assessment of indemnity
• the measure of loss under a total loss situation

Understand how the principles of subrogation and contribution apply to insurance claims.

Chapter 8 Subrogation and contribution
8.1. Subrogation
the rationale behind subrogation
the definition of subrogation and how it distinguishes from assignment and abandonment
the operation of subrogation
apply the principle of subrogation to basic insurance situations
the conditions to be satisfied before the rights of subrogation can arise
the source of subrogation rights
describe the effect of market agreements on the principle of subrogation

8.2. Contribution
the rationale behind contribution why double insurance occurs
the definition of contribution
how contribution arises
the date on which contribution claim is to be assessed
the clauses governing contribution
the calculation of contribution
the effect of market agreements on the principles of contribution

Understand the law of agency.
Chapter 9 Agency
9.1. Nature of agency
9.2. Agents, principals and third parties
the relationships between agents, principals and third parties
9.3. Creation of agency
9.4. Rights and responsibilities
the nature of an agent’s rights, responsibilities, duties and authorities
9.5. Termination
the termination of agency and its effects
9.6. The law of agency and insurance
how the law of agency applies to insurance