

NAME OF SUBJECT	LIABILITY INSURANCE	
LEARNING & SKILL OUTCOMES	OBJECTIVES	
Demonstrate the nature of employer's liability risk, the cover and practices of employers liability insurance	<ul style="list-style-type: none"> • Demonstrate the nature of employers' liability risk in Malaysian market and also in the UK market • Illustrate the cover and practices of employer's liability insurance in Malaysian market and also in the UK market 	
Illustrate the risks, cover and practices of public and product liability insurance	<ul style="list-style-type: none"> • Illustrate the cover and practices of public liability and products liability insurance in Malaysian market and also in the UK market 	
Illustrate the risks, cover and practices of professional indemnity, directors' and officers' liability insurance	<ul style="list-style-type: none"> • Illustrate the cover and practices of professional indemnity insurance in Malaysian market and also in the UK market • Illustrate the cover and practices of directors' and officers' liability insurance in Malaysian market and also in the UK market 	
Demonstrate and understand the management and evaluation of liability risk and the main considerations of liability underwriting	<ul style="list-style-type: none"> • Demonstrate the management and evaluation of liability risk, liability underwriting and some prominent cases in Malaysia. 	
CONTENT OUTLINE		
<p>THE NATURE OF EMPLOYER'S LIABILITY RISK</p> <ul style="list-style-type: none"> • Comprehension of Workplace legislation <ul style="list-style-type: none"> ○ Main features of the Occupational Safety and Health Act 1994, (sec 514) ○ Responsibility of the National Council for OSHA at work ○ Main work of the Safety Officer: <ul style="list-style-type: none"> ○ Regulations ○ Codes of Practice ○ Guidance ○ Courses of Action ○ Enforcement • The duties of an employer / self-employed and how they are discharged <ul style="list-style-type: none"> ○ Main features of : <ul style="list-style-type: none"> ○ Malaysian Employment Act 1955 ○ Industrial Relation Act 1067 ○ Duties concerning employees working environment and practice ○ Compliance with statutory duty, including risk assessments • Disease exposures from workplace hazards <ul style="list-style-type: none"> ○ Exposures from : <ul style="list-style-type: none"> ○ Dust activities ○ Chemicals activities ○ Operational activities ○ Industrial code of practice: <ul style="list-style-type: none"> ○ Air quality ○ Safe working place ○ The asbestos exclusion <ul style="list-style-type: none"> ○ The history ○ The impact then and now 		
<p>THE COVER AND PRACTICES OF EMPLOYERS LIABILITY INSURANCE</p> <ul style="list-style-type: none"> • The legal framework <ul style="list-style-type: none"> ○ Purpose and main features of : 		

- Employment Act 1955 (Malaysia)
 - Industrial Relations Act 1967 (Malaysia)
 - Employers' Liability Act 1969 (UK)
 - SOCSO Act 1969
 - Workmen Compensation Act 1952
 - Test of employment
- The effect of the law on the operation of an employer's liability policy
- Policy Coverage
 - Employers liability
 - Workmen compensation
 - Foreign workers compensation scheme
 - The operative clause and key definitions:
 - The definition of an employee
 - Limit of indemnity
 - Legal costs
 - Other clauses
 - Common policy on :
 - Exclusions
 - Conditions
 - Extensions
- Market practices
 - Apportioning disease claims among insurers
 - Transfer of Undertakings (Protection of employment) Regulations 1981 – TUPE
 - Code of Practice for tracing Employers' Liability Insurers 1999
 - Employers' Liability and insolvent insurers and the role of the Perbadanan Insurans Deposit Malaysia (PIDM)
 - Key underwriting information
 - The common rating bases

THE RISKS, COVER AND PRACTICES OF PUBLIC AND PRODUCT LIABILITY INSURANCE

- Risks
 - The liability of organisations in general and personal liability
 - The legal framework:
 - Main health and safety
 - Consumer protection legislation
 - The main risks inherent in key occupations, activities and products – importance of the business description
 - Trades where insurance is compulsory
 - The impact of civil justice reforms and case law
- Policy Coverage
 - Operative clause and the various triggers
 - Claims made vs. losses occurring (strict liability)
 - The different forms of indemnity
 - The different forms in accidental and non-accidental wordings
 - Legal costs
 - Typical market exclusions
 - The insurance of pollution write-back clauses
 - Financial loss extensions and products guarantee/ recall policies
 - Understanding to retroactive period extension
- Market practices in relation to public and product liability
 - Key underwriting information
 - The common rating bases

THE RISKS, COVER AND PRACTICES OF PROFESSIONAL INDEMNITY INSURANCE

- Risks
 - How liability arises in law :
 - Common law and tort
 - Under contract
 - Under statute
 - Personal liability
 - The tort of negligence – the definition of negligence

- The duty of care and the case of Donoghue vs Stevenson (1932)
- Foreseeability
- Proximity
- The duty of care concerning negligent misstatements – Hedley Byrne & Co vs Heller & Partners (1963)
- How liability arises in practice:
 - Construction and property professions
 - The legal profession
 - The medical profession
 - Financial services including accountants and auditors
 - Other consultancies and professions
 - Internet liability
- Policy Coverage
 - The operative clause:
 - Claims made including ‘losses occurring’
 - The differences in basis of indemnity
 - Breach of professional duty and dishonesty
 - The limit of indemnity
 - Cost and expenses
 - Common policy on :
 - Exclusions
 - Conditions
 - Extensions
 - Common claims notification conditions and the operation of the “retroactive” clause
- Market practices in relation to professional indemnity
 - Typical proposal form information
 - Underwriting rating factors

THE RISKS, COVER, PRACTICES OF DIRECTORS’ AND OFFICERS’ LIABILITY INSURANCE

- Risks
 - Main features of the common law liability of directors & officers including E&O insurance
 - The statutory liability of directors and officers
 - main features of Companies Act 1965 (revised 2007)
 - other legislation such as the Corporate Governance report issued by SSM 2012
 - Personal liability
 - Indemnity or relief under Companies Act 1965 (revised 2007)
 - Definitions of :
 - The director, de facto director and shadow director
 - Subsidiary and associated companies,
 - Outside directorships
 - How liability arises in practice:
 - Merger and acquisition
 - Insolvency
 - Other cases giving rise to director litigation
 - Sarbanes Oxley Act of 2002 and its impact on executive risk in North America
 - Liability for corporate manslaughter - the legislative position, vicarious liability
- Policy coverage
 - The operative clause
 - Definitions of:
 - Wrongful act
 - Claim
 - Loss
 - Defence costs
 - Common exclusions
 - The Limit of Indemnity
 - Common extensions, including:
 - Securities claims
 - Employment practices claims
 - The operation of policy cover on merger or takeover
- Market practices
 - Typical proposal from content and accompanying information

- Typical claims questions in the proposal form
- Proposal form declaration and signature
- Underwriting rating factors
- Use of prior and pending exclusions

THE MANAGEMENT AND EVALUATION OF LIABILITY RISK

- Risk assessment:
 - Types of hazard
 - Identification and perception of risk
 - Risk analysis
 - Role of the risk manager
 - Risk controls
- Typical underwriting information
- Loss control surveys and the role of the loss control surveyor
- Risk improvement options
- The impact of other legal systems on liability underwriting
- Evaluating the historical claims record:
 - The main approaches
 - Their advantages and disadvantages

THE MAIN CONSIDERATIONS OF LIABILITY UNDERWRITING

- The operative clause and the different triggering events
- The jurisdiction clause:
 - Purpose
 - Intention
 - Usage
 - Its application
- Underwriting the risk:
 - Main rating factors
 - Determining claims costs
 - The final rate
 - Decision making on specific cases
 - Applying the rate over time
- Policy conditions and issues arising from
 - Admitted policies
 - Non-admitted policies
 - Difference in limits (DIL)
 - Difference in conditions (DIC)
 - Umbrella clauses
- Indemnity limits:
 - Increased limits
 - Operation of excess of loss covers
 - Risk sharing options