

**NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY**

**B. COMM (HONOURS) DEGREE INSURANCE AND RISK MANAGEMENT**

**FINANCIAL SERVICES REGULATION AND INSURANCE LAW : CIN 2204**

**JUNE 2004 SECOND SEMESTER EXAMINATION**

**DURATION : 3 HOURS**

**INSTRUCTIONS TO CANDIDATES**

1. answer **Five** Questions in all
2. Answer at least **ONE** question from each part.
3. All questions carry equal marks

**PART A**

1. Nompumelelo insures her Mazda 323 vehicle with Titanic Insurance Company for \$10m. The car has a market value of \$15m. The car is insured comprehensively. Nompumelelo's car is involved in an accident worth \$4m in repairs. She lodges a claim with Titanic for \$4m being the total cost of repairs.

Titanic acknowledge the claim and three weeks later they write to Nompumelelo advising her that their liability will be limited to \$2.67m because the car was "grossly under-insured". It is discovered that the policy issued to Nompumelelo has no average condition.

Meanwhile as the Titanic are still processing the claim, it turns out that Nompumelelo has another policy with Trust Insurance company on the same car. The policy was issued one and half months after the one by Titanic. However Nompumelelo insists on claiming from Titanic only in order to preserve her "good record" with Trust of not having claimed for the past two years. Titanic refuse to pay the claim in full since Trust are also involved.

- (a) Advise Nompumelelo on whether her claim of \$4m with Titanic is valid.  
[10 marks]
    - (b) Outline the main requirements for contribution to apply in this case.  
[6 marks]
    - (c) At common law, is Titanic's refusal to pay the claim in full justified?  
Give reasons for your answer.  
[4 marks]
- [Total 20 marks]**
2. John borrows a sum of \$5m from Brian. The loan is to be repaid over a period of 24 months. Brian is afraid that "something may happen" to John before he completes the repayments on the loan. He therefore decides to take out an insurance policy on the life of John as security that should John fail to repay the

loan, the proceeds of the policy would be used to meet the outstanding balance on the loan. John repays the loan in full within the 24 months period as agreed. The insurance policy is not lapsed, instead Brian continues with the premium repayments. Some two years after the completion of the repayments by John, he dies and Brian approaches the insurers claiming the proceeds under the policy.

The insurance company contests the claim on the grounds that by the time John died, Brian no longer had insurable interest in the life of John.

IN another related incident, Sarah has been given a brand new Mazda 323 by her parents as a 21<sup>st</sup> birthday present. She phones Granite Insurance Company to arrange insurance for her car. After answering a series of questions she is advised over the phone that her proposal for insurance has been accepted with her cover commencing immediately. The company further advised Sarah that when she gets free time she should come to their offices to complete a few formalities. Sarah is so excited about her new present that she takes off immediately to go and show her friends the car. While reversing the car from the garage, she hits into a brick pillar and the car is damaged. She lodges a claim with Granite Insurance Company, who repudiate the claim alleging that no contract of insurance had been entered into since no policy document had been issued and no premiums had been paid when the loss occurred.

Advise Brian and Sarah of their rights and liabilities.

**[20 marks]**

3. Rutendo approaches Regent Insurance seeking insurance on her house and its contents. Thoko the receptionist at Regent gives Rutendo a proposal form and informs her that they have the lowest rates in the market and urges her to insure the house with the company.

Rutendo completes the proposal form. One of the questions asked on the form states:

“How many external doors does your house have?”.

Rutendo answers “Three” when in actual fact the house only has two external doors. The insurance company loads premiums for external doors in excess of two.

At the bottom of the proposal form is a declaration to the effect that the proposal form and answers provided by the proposer “shall be the basis of the contract”. One week later Rutendo receives a letter from Regent Insurance advising her that her application for insurance has been accepted. The letter also contains the premiums due and payable.

Some three months after taking the policy Rutendo discovers that contrary to what Thoko had said, Regent do not offer the lowest rates in the market at all and she confronts the company alleging misrepresentation. Meanwhile the insurance

company have discovered that Rutendo's house has two external doors not three as stated in the proposal form and they seek to cancel the policy on that basis. Rutendo contends that, there was an honest mistake and as a matter of fact, her mistake did not prejudice the company at all, infact they benefited from it since they loaded the premiums on grounds that there were more than two external doors when in actual fact they were only two.

Advise Rutendo and Regent Insurance Company about their right and liabilities. **[20 marks]**

**PART B**

4. With specific reference to insurance and using illustrative examples wherever appropriate, discuss the concept of market failure and its forms. **[20 marks]**
5. You have recently joined the Financial Services and Regulation Department under the Ministry of Finance. The Ministry has just embarked upon the process of launching a new regulatory policy for insurance. As a graduate in insurance you have been tasked to identify the broad issues that the new policy should address.

Outline these issues highlighting why each should be addressed by the new policy. **[20 marks]**

6. Discuss the main rules (cannons) used when interpreting insurance contracts. **[20 marks]**
7. You are an insurance consultant with a leading risk management firm. You have been chosen to represent your organization at a workshop organized by the Consumer Council of Zimbabwe. It is expected that you will present a paper titled:  
"Utmost good faith and the duty of disclosure – an analysis of their importance and necessity in insurance transactions"

Draft your paper for presentation at this workshop. **[20 marks]**

8. It is often said that the principles of indemnity, subrogation and contribution are inseparable. Discuss. **[20 marks]**

---

**END OF EXAMINATION!!**