

Insurance Law

1. INTRODUCTION TO SEMINAR	1
2. TYPES OF COVER	2
What is insurance?	2
Who can be indemnified?	2
<i>Interest in the property</i>	2
<i>Section 7 Insurance Law Reform Act</i>	3
For how much can someone be indemnified?	4
Valued policies	4
Indemnity v reinstatement insurance	5
<i>The strict legal position</i>	5
<i>The commonly understood difference</i>	5
Indemnity policies	5
<i>The sum insured</i>	5
<i>The excess</i>	5
<i>Average clauses</i>	5
<i>Loss suffered v value of the subject matter</i>	7
<i>New for old clauses</i>	7
Reinstatement or replacement policies	7
Section 83 of the Fires Prevention (Metropolis) Act 1774 (IMP)	8
Earthquake cover	9
<i>Earthquake Commission Act 1993</i>	9
<i>Residential buildings</i>	9
<i>Residential land</i>	9
<i>Personal property</i>	10
<i>Review of maximum amounts</i>	10
<i>Section 36(2) Building Act Certificate</i>	10
Mortgage protection insurance	10
Self insurance	11
3. DUTY OF GOOD FAITH	12
Introduction to duty of good faith	12
The scope of the duty	12
Duty can be limited by the wording in the proposal	15
Effect of non-disclosure	15
<i>When must disclosure be made?</i>	16
<i>Duty to not misrepresent material facts</i>	16
Duty to notify of changes in the risk	17
Checklist of items to disclose to the insurer	19
4. NOTING OF INTERESTS ON POLICIES	21
Persons with limited interests may insure	21

Joint and Composite Insurance	22
Joint insurance	22
Composite insurance	23
Whether actions of one insured affect cover of other co-insureds	24
Failure to note an insured's interest	25
Vendor and purchaser	25
<i>The common law</i>	25
<i>Duty of solicitors to properly advise clients on insurance needs</i>	28
<i>Standard agreements for sale and purchase</i>	29
<i>The Insurance Law Reform Act 1985</i>	29
Mortagor and mortgagee	31
<i>How should the interest of interested parties be noted?</i>	33
5. ISSUES FOR LANDLORD AND TENANTS	35
Protecting the tenant's interests	35
Subrogation	35
When a landlord's rights are restricted	36
When tenants can benefit from landlord's insurance	37
The cases	38
The level of insurance premiums	42
Protection of landlord's interests	42
Summary	42
6. OTHER CONTRACTS OF INDEMNITY	44
Insurance cover	44
Indemnity clauses	44
<i>Effect of indemnities on professional indemnity insurance cover</i>	45
<i>Limitations of liability</i>	49
7. THE RIGHTS OF INSUREDS	51
Actions against insurers	51
Insurance Law Reform Act 1977	51
Section 9 of the Insurance Law Reform Act	51
The cases	53
Section 11 of the Insurance Law Reform Act 1977	55
The cases	56
Possible future developments in relation to the rights of both insurers and insureds	59
<i>The Law Commissions recommendations (report no 46)</i>	59
<i>Non-disclosure</i>	59
<i>Section 9 of the Insurance law Reform Act 1977</i>	60
<i>Section 11 of Insurance Law Reform Act 1977</i>	61
<i>Section 83 Fires Prevention (Metropolis) Act</i>	61
<i>Part III of the Law Reform Act 1936</i>	62
8. UNIT TITLES	65

Why unit title situations need special insurance treatment	65
What is the insurance structure of the Act	65
<i>Section 15 of the Unit Titles Act 1972</i>	65
Application of the insurance moneys	66
Who has an interest in the insurance	66
Cancellation or lapsing of insurance	67
Ability to separately insure	67
Mortgage redemption insurance	68
Future development units	69
Law Commission recommendations	69
Cross leases	70
Cross lease scheme	70
Lessee to insure	71
Lessor to insure	71
Points to advise on	72
APPENDIX	73