

# Commercial Transactions Exam Notes

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# Contracts of Insurance

## Definitions

An insurance contract is a contract where one party (insurer), in consideration of a sum of money (premium), undertakes to pay another (insured) a sum of money or equivalent on the occurrence of a specified event.

Common types:

- general insurance (covering loss/ damage to property, and liability to third parties)
- life insurance
- health insurance
- marine insurance

*Medical Defence Union Ltd v Department of Trade*

First, the contract of insurance must provide that the assured would become entitled to something on the occurrence of some event... second, the event must be one which involves some element of uncertainty... Third, the assured must have an insurable interest in the subject matter of the contract.

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## Insurance Law and Construction Contracts

How is an indemnity identified?

What does the notion of risk mean in insurance contracts?

Builder does wrongful act. Passes on liability to contractor. Is insurer liable to pay insurance?

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## Key Components

### Cover note

- interim contract of insurance
- normally short duration (up to a month)
- binding on the insurer

It is for the period of time the insured completes the proposal, or the insurer accepts the insured's offer. The cover note will insure the insured for the period up to the issuing of the policy, or for a certain period of time as set down in the cover note, or until such time as the insurer terminates the insurance contract embodied in the cover note.

### Proposal form

- completed by insured
- answers to questions allow insurer to assess risk

The proposal form being submitted to the insurer constitutes an offer to the insurer. The insurer may accept or reject it.

### Policy

- document embodying terms of the insurance contract
- generally standard form with little flexibility or negotiation

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## Regulation

*Commonwealth Constitution* s 51(xiv) Commonwealth may legislate with respect to insurance other than State insurance

### Principal legislation