

# CLAIMS FOCUS



THE CHARTERED INSTITUTE OF LOSS ADJUSTERS

• June 2016 Issue • Read and gain one hour of CPD



## Studying through the storms

by Malcolm Hyde, CILA Executive Director

The Institute is delighted to report a record turnout for the April exam sitting with 170 papers sat. We are incredibly proud of those members who maintained their studies and commitment to CILA qualifications whilst also responding to the demands of the winter storm and flood claims in the UK.

The April exam sitting included papers for our Diploma, Advanced Diploma and Associate level qualifications.

**This reflects the growing appetite from members to achieve the highest qualification in claims, with 30 members successfully attaining Chartered or Certified status in 2015.**

Having our Associate level qualification assessed by Bournemouth University as level 7 (i.e. masters level) was an important step and we are pleased to continue working with the University to maintain this standard. In our President's words we should be "Proud & Shout" about these achievements.

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## FORTHCOMING EVENTS

### *Property SIG Seminar*

Thursday 16th June  
Novotel London Tower Bridge  
10 Pepys Street  
London EC3N 2NR

### *Liability SIG Seminar*

Tuesday 21st June  
Double Tree by Hilton  
2 Wharf Approach  
Leeds LS1 4BR

### *Liability SIG Seminar*

Thursday 1st September  
The Lighthouse  
11 Mitchell Lane  
Glasgow G1 3NU

### *CILA Conference 2016*

Wednesday 14th September  
The Midland hotel  
16 Peter Street  
Manchester M60 2DS

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## The Third Parties (Rights Against Insurers) Act 2010

**The Third Parties (Rights Against Insurers) Act 2010 (the “Act”), which received Royal Assent in March 2010, is finally due to come into force on 1 August 2016 following the recent Commencement Order that was made on 28 April 2016.**

The bringing into force of the Act has been long awaited, with the Act having been delayed by some six years following the discovery of a number of omissions found after its enactment (such as the Act’s failure to apply in certain insolvency situations).

The Act, which replaces the existing regime set out in the Third Parties (Rights Against Insurers) Act 1930 (the “1930 Act”), will bring about an important change for claimants seeking to bring claims against the insurer of an insolvent wrongdoer.

Most significantly, the Act introduces a simplified procedure for claiming directly against the insurer – i.e. ‘skipping out the middle man’ in what was previously a two-stage process. The 1930 Act required the claimant to first establish liability (and quantum) against the insolvent

wrongdoer, before commencing a claim against the insurer of that insolvent entity, thereby requiring the claimant to fund two pieces of litigation.

However, under the new Act, the claimant will be entitled to bring a claim directly against the insurer of the insolvent wrongdoer in the first instance. This is because the Act provides that the rights of the insolvent wrongdoer under the contract against the insurer in respect of liability shall be transferred, and vest in, the wronged third party, thereby allowing the wronged third party to bring a claim to enforce those rights directly against the insurer. This means that the claimant need only commence one set of proceedings, and such proceedings may be used to seek a declaration as to the insured’s liability and/or a declaration as to the insurer’s potential liability.

The declaration will bind the insurer but not the insured, unless the insured is also a party to those proceedings. The Act also imposes a requirement for the disclosure of certain information relating to the existence, scope and terms of the insurance contract, for example.

It is anticipated that this simplified process, together with the increased transparency afforded by the disclosure obligations, will enable third parties to pursue matters more efficiently, thereby also potentially reducing costs. That said, and whilst the changes improve the position for third party claimants, it is worth noting that the insurer will be entitled to rely on any defence that would have been available to the insured against the claim (such as contributory negligence and/or arguments concerning limitation, for example).

*If you would like more information, please contact **Roger Franklin – Partner, Grace Harrison – Associate, or any member of the Edwin Coe Insurance Litigation Team.***

*Edwin Coe, Lead sponsors of the CILA Claimant SIG.*

