LEARNER GUIDE

Unit Standard Title:	**Demonstrate Knowledge and Understanding of House Owners Insurance**
Unit Standard No:	**120015**
Unit Standard Credits:	**3**
NQF Level:	**4**

This outcomes-based learning material was developed by Masifunde Training Centre with funding from INSETA in July 2014. The material is generic in nature and is intended to serve as a minimum standard for the industry.

Demonstrate Knowledge and Understanding of House Owners Insurance

Introduction

If you want to insure the building of your private residence, outbuildings, swimming pool etc. against fire, lightning, explosion, earthquake, water, wind, storm damage etc., you need home owners insurance cover. When you have a bond on your home, the bank will require that you insure the building on a domestic buildings insurance policy for the duration of the bond term.

Most home owner's insurance policies provide cover for more than just the walls and roof of your home. Cover for broken windows, geysers, bursting of water tanks and pipes (including the damage to it), malicious damage etc. are all usually included. Premiums are based on the area you live in, construction of the roof and walls (non-standard walls and thatched roofs increases the risk and premium), the value of your home and the excess you agree to pay when you claim.

In this module, we will look at:

- The cover provided under house owners insurance
- Extensions, exclusions and optional covers in domestic buildings insurance *(hereinafter referred to as domestic buildings)*
- Analysing a policy wording and schedule to determine cover
- Applying underwriting criteria in a domestic buildings insurance policy
- Personal liability insurance

Module 1

The cover provided under House Owners Insurance

This Module deals with:

- The concepts of the insured and insured property is explained with examples from a domestic buildings policy
- The main events insured under domestic buildings insurance with examples
- The difference between cover provided under household contents and house owners insurance
- A policy document analysed and an indication given of the insured events in a domestic buildings insurance policy

1.1 The concepts of the insured and insured property is explained with examples from a domestic buildings policy

In terms of buildings cover the insured is typically the person named in the schedule as the policyholder, as well as any members of his family who normally live with him.

Some insurers substitute the word "family" with household members. What is important is that they are living with the insured. Other insurers who use the word "family" will allow non-family members possessions to be covered under the policy, provided they are individually named on the schedule. The same would apply where someone lives on the premises of the insured but does not want any possessions covered. They would also need to be noted on the schedule to prevent possible underinsurance problems at claims stage.

The buildings section of the policy covers the immovable property or building and fixtures and fittings of the insured at the address that will be noted on the schedule. The intention of buildings cover is to cover the structure of the building or property including ancillary structures such as gates, gate posts, walls and fences as well as improvements such as swimming pools and spa baths etc. Certain policies may require the client to take out additional cover in order to cover boreholes and swimming pool equipment such as pumps and motors.

Under certain circumstances items that will be attached to the building may be covered as contents.

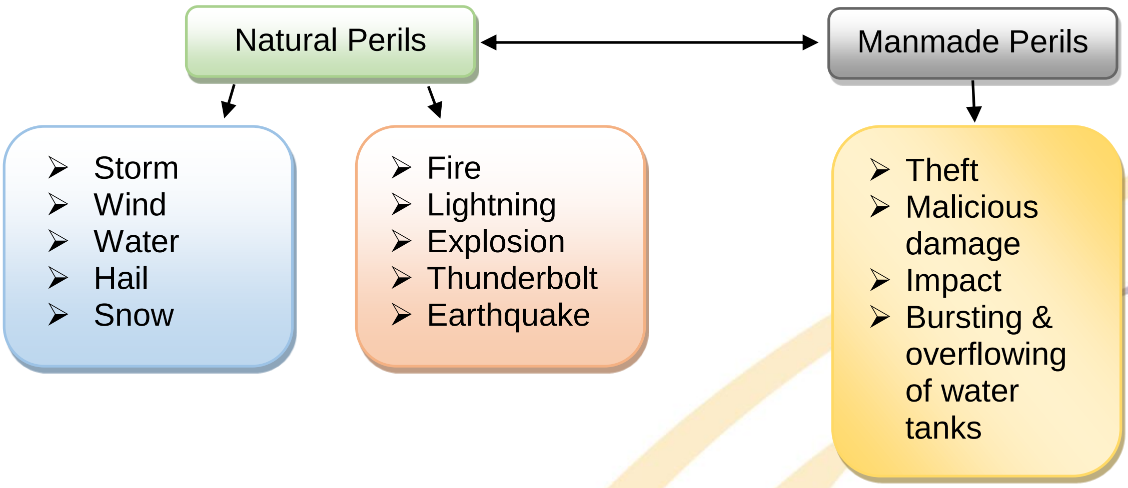
Example of a fixture and fitting covered under contents cover:
A tenant who rents a house will not normally take out buildings cover, but may have an item like a satellite dish which the tenant owns but is fixed to the landlord's building. In situations like this some insurers may cover the satellite dish under contents cover.

In terms of the house owners wording the insured is the person named in the schedule.

The insured will almost always be the person who owns the private residence. In the case of joint ownership for example husband and wife, both names should be shown.

1.2 The main events insured under domestic buildings insurance with examples

Domestic building insurance provides protection against most risks to property the main events including perils such as fire, storm, theft, impact and explosion. A home owners' policy is in most cases a named peril policy which indicates that only perils mentioned in the policy wording is in fact covered. Perils which may generally be covered by this section can be summarised as follows:



Common exclusions include damage resulting from wear and tear, vermin, defect in design, earthquakes as a result of underground mining activities, nuclear incidents, acts of terrorism and war.

Buildings which will be unoccupied for a period longer than 30 – 60 consecutive (dependent on insurer) will have theft cover automatically lapse unless an additional extension is added to the policy. This would be advisable in the case of for example, holiday homes.

1.3 The difference between cover provided under household contents and house owners insurance for a specific insurer

The main difference between building insurance and household insurance is that household insurance usually covers the movable contents of a building against loss whereas building insurance covers the immovable property including the building, fixtures and fittings. These policies cover damage to buildings that may be caused by floods, fires, earthquakes and damage caused by robberies and burst pipes. It is very important to carefully read your building insurance policy before signing the contract to ensure that you will be able to cover any damage caused which may not be covered by the proposed building insurance policy.
Home owners insurance will only cover residential properties in residentially zoned areas. Whereas the household contents section sometimes allow limited cover for goods used for business purposes. These two different insurance policies will often

have different exclusions and extensions and even different perils which are covered.

1.4 A policy document is analysed and an indication is given of the insured events in a domestic buildings insurance policy

A homeowner's building insurance policy document usually contains the following wording:

The Perils

The premises are covered for loss or damage arising from:

- fire lightning explosion;
- storm wind water hail snow excluding -
  - (a) loss or damage caused by subsidence or landslip;
  - (b) loss or damage to gates fences or retaining walls;
- earthquake;
- aircraft and other aerial devices or articles dropped there from;
- bursting or overflowing of water tanks apparatus or pipes including damage to such apparatus or pipes;
- impact by any vehicles animals or falling trees;
- housebreaking or any attempt thereat but excluding the first 10% or R1 000 whichever is the greater of any claim whilst the buildings are unfurnished and unoccupied;
- theft or any attempt thereat of landlord's fixtures and fittings in or on the buildings but excluding theft whilst the private residence is lent let or sub-let in whole or in part (other than to paying guests boarders or lodgers not exceeding three in all) unless such theft is accompanied by forcible and violent entry into or out of the buildings but excluding the first 10% or R1 000 whichever is the greater of any claim whilst the buildings are unfurnished and unoccupied;
- escape of oil from a fixed oil-fired heating installation or apparatus connected therewith.

Fire

The generally accepted definition of fire for insurance purposes is "actual combustion or ignition which is accidental in origin and not in the place where it is intended to be". This is not a perfect definition because arson is the deliberate setting of a fire and damage arising from arson is insured, as long as the act is not perpetrated by the insured.

Arson, unless set by the insured, is still accidental to the insured and hence covered. Arson of course started by rioters would be covered in terms of the SASRIA policy.

Damage caused as a direct consequence of fire is considered to fall within the scope of fire also. (This concept is referred to as proximate cause).

For example:

- damaged caused by the water used to extinguish a fire;
- damage caused by the firemen whilst extinguishing the blaze;
- property damaged or destroyed to prevent the fire spreading;

- smoke damage to goods. Often foodstuffs have to be destroyed because smoke has damaged them;
- damage caused by the collapse of the walls of burning buildings.

Lightning

Lightning, a form of visible electric discharge between rain clouds or between a rain cloud and the earth. The discharge is seen in the form of a brilliant arc, sometimes several kilometres long, stretching between the discharge points. The discharge also sets up a sound wave that is heard as thunder.

Buildings are protected from lightning by providing them with metallic lightning rods, extending to the ground from a point above the highest part of the roof. These rods form a low-resistance path for the lightning discharge and prevent it from travelling through the structure itself. This is particularly important when insuring thatch or wood shingle roofed premises.

Explosion

Explosion is defined (not in the policy) as an expansion of gas, liquid or substance causing a substantial increase in pressure of the surrounding air, which in turn radiates pressure outwards in all directions. Depending on the force exerted by the expansion an explosion can cause death, injury or damage to property

Concussion damage i.e. from shock wave, is insured and does not have to be preceded or followed by fire

Storm, Wind, Water, Hail and Snow

Storms and floods not only damage property and endanger the lives of humans and animals, but have other effects as well. Rapid runoff causes soil erosion as well as sediment deposition problems downstream. Spawning grounds for fish and other wildlife habitat are often destroyed. High-velocity currents increase flood damage; prolonged high floods delay traffic and interfere with drainage and economic use of lands. In South Africa we have had large scale flooding in some years whilst in others we have had droughts. This makes prevention much harder.

Storm may be defined as a “violent atmospheric disturbance involving conditions of lightning, thunder, wind, rain, hail or snow either singly or in a combination”.

Flood is defined as “inundation overflowing or eruption of a body of water over land which is not normally submerged”.

A major problem with storm, flood and hail damage is that they normally do not damage just one house, but rather affect a whole area and it is normal for insurers to purchase catastrophe reinsurance cover to protect them against this.

Exclusions to this

In terms of the storm, wind, water, hail and snow perils there are specific exclusions. These are:

- Loss or damage caused by subsidence or landslip
- damage to gates fences and retaining walls.

Note that these are only excluded if the proximate cause was the storm, wind, water, hail and snow perils. If the damage is caused by fire there is still cover.

Simplified
This may now seem as clear as mud, but in fact what it is saying is simple. Some insurers will give cover where water has come along as a flood and removed soil. Just as waters cuts a riverbed through soil, so it can cut away the foundations or soil around your house.

Insurers do not normally include cover where the damage is an inherent flaw of the soil, for example clay soil expands and contracts quite dramatically depending on the amount of available water. This can cause cracking and severe damage to foundations.

Gates and Fences
Gates and fences are not as strong as say walls or buildings and therefore they are prone to damage by storms. What is the difference between a wall and a fence?

Normally a fence is constructed of wire, mesh or wood and is therefore flimsy, whilst a wall is built of concrete, stone or brick.

Retaining Walls
What is a retaining wall? This is quite simply a wall that retains soil or loose rock behind it. It is similar to a dam wall but instead of retaining water it retains or keeps in soil or loose rocks. It is also known as a **revetment.**

Problem with Retaining Walls
When it rains soil becomes much heavier and a retaining wall whilst holding back the soil, if there are no drainage holes, will collapse because of the pressure.

When a retaining wall is built there should be holes left for the water to run-off. Otherwise the wall cracks and eventually will burst open.

Module 2

Extensions, exclusions and optional covers in domestic buildings insurance

This Module deals with:

- The concept of landslip and subsidence and an indication of the implications if it is not included in a policy schedule
- The difference between the standard SASRIA cover and war exclusion under the domestic buildings policy

2.1 The concept of landslip and subsidence and an indication of the implications if it is not included in a policy schedule

Subsidence and Landslip is specifically excluded under the insured perils. In the policy wording however there is provision for it to be added back in – **at an additional premium.**

Subsidence refers to the ground giving way downwards whilst landslip refers to the vertical movement of the land, both eventualities could be responsible for damage such as cracking and breaking of structures, but could also refer to more severe damage such as total loss resulting from a severe subsidence event like a sinkhole or landslip event like a mudslide.

Cover is in respect of loss or damage caused by subsidence or landslip, **but excluding damage**

(i) to drains, water courses, boundary walls, garden walls, retaining walls, gates, posts and fences, unless specifically insured;

(ii) caused or attributable to:

- faulty design or faulty construction of the buildings or weakening of support;
- workmen engaged in structural alterations, additions or repairs to the buildings;
- excavations other than mining operations.

(iii) Consequential loss of any kind.

Excess

An excess will normally always apply and it is usually, but need not be, 1% of the sum insured with a minimum of R500.

Variations

Some insurers have altered the "standard wording" of this extension and they also exclude

- damage arising from the compaction of landfill (as could happen when houses are built on reclaimed land or old rubbish dumps);
- normal settlement, shrinkage or expansion of the dwelling;

- damage to solid floor slabs, swimming pools, tennis courts, patios, driveways, septic or conservancy tanks and paths, unless the dwelling itself is damaged at the same time.

Availability
In the marketplace, many of the banks and financial services providers will have this built into their house owners wording. In the rest of the market, it can be difficult to get cover and if added is very costly.

2.2 The difference between the standard SASRIA cover and war exclusion under the domestic buildings policy

South African Special Risk Insurance Association (Sasria)
Sasria covers you for any accidental or intentional damage to your property caused by any person or group of people taking part in a riot, strike, lock-out, public disorder or civil commotion, or committing any act that has a political, social or economic aim, objective or cause, or that is in protest against any state or government. This cover is limited to things happening in South Africa. The Sasria master policy is kept by us and is available on request.

- **What is not covered by Sasria?**

Sasria does not cover loss or damage that is caused by:

- consequential or indirect means;
- a stoppage or deliberate slowing down of work;
- your property being disposed of or confiscated by any lawful authority; or
- an act of terrorism involving the use or release or the threat thereof of any nuclear weapon or device or chemical or biological agent;
- an act of war.

If Sasria does not pay your claim, it is your duty to prove that you were covered.

War, riot and terrorism exclusion as applied to the buildings section
Every policy wording for cover within the borders of South Africa will include the standard SAIA exclusions. These exclusions refer to the exclusion of cover for a number of events including but not limited to,

- civil commotion, labour disturbances, riot, strike, lockout, public disorder or any act or activity which is calculated or directed to bring about any of the aforegoing;
- war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war;
- mutiny, military rising, military or usurped power, martial law or state of siege, or any other event or cause which determines the proclamation or maintenance of martial law or state of siege;

When comparing the exclusions highlighted in the Sasria wording to the exclusions in the SAIA general conditions as applied to home owners' insurance one major difference is evident. The Sasria exclusions refers to much of the same except for the first which is the exclusion referring to civil commotion, labour disturbances, riot & strike etc. as this is exactly the cover provided by Sasria.

Module 3

Analyse a policy wording and schedule to determine cover

This Module deals with:

- A policy wording analysed to determine terms and conditions
- A policy schedule analysed to determine endorsements and amount of cover

3.1 A policy schedule analysed to determine endorsements and amount of cover

Exclusions are:

- Events and/or items that you are not insured for
- Limitations on the cover provided in the policy

Endorsements are:

- Alterations made by your insurer to the terms and conditions of your insurance policy that refer specifically to you
- Any extensions of cover requested by you

Warranties are:

- An undertaking or promise that a certain set of facts are true and correct or must be complied with in the future

Exclusions are there to protect both your interests and the interests of the Insurer. As a policyholder you have the right to know exactly what you are - and are not - insured for. To this end, insurers are obligated by law to ensure that any exclusion is clearly stated.

The insurer must underwrite the risk in accordance with terms and conditions that would make the risk insurable.

Endorsements, like exclusions, ensure that an insurance policy is geared to your specific needs. They have to be clearly stated because you have the right to know of any situations or circumstances that amend the original terms and conditions of your insurance policy.

Warranties are undertakings or promises with regard to specific terms and conditions that could affect the validity of the contract and which should be strictly complied with. If you accept a discount for installing a burglar alarm and/or tracking device, you must ensure that the burglar alarm and tracking device is installed and is maintained in good working order. If this is not the case the insurer may reject the claim.

An excess - also called the 'first amount payable' - is the amount of money that you, as the insured person, are responsible for in the event of a claim. The excess is the uninsured portion of your policy. The excess or excesses must be clearly stated by the insurer, either in the policy document, schedule or in an endorsement.

Some policies have excesses applicable to several sections of the policy. For example, the House Owners section, Household Contents section, All Risks section and Motor section can all contain excesses.

Module 4

Apply underwriting criteria in a domestic buildings insurance policy

This Module deals with:

- The underwriting criteria applied a domestic buildings policy and an indication of how each can affect the risk
- The concept of average applied to domestic buildings insurance claim for two different scenarios
- The consequences of giving incorrect advice in terms of FAIS, Policyholder Protection Rules and Professional Indemnity
- The relationship between excess and premium with examples

4.1 The underwriting criteria is applied a domestic buildings policy and an indication of how each can affect the risk

Proposals within the following general criteria are **not** to be accepted:

- Other company's cancellations or declinature.
- Poor claims experience – this is difficult to define in terms of numbers and amounts and must be left to the underwriter's discretion.

The underwriting process
It is during this process that the insurer investigates the risk attached to a certain insurance portfolio in order to determine the probability of a loss occurring. This will in turn determine whether the insurer will accept of decline a risk and if accepted, the premium, terms and conditions which would be applicable.

Some of the underwriting criteria which would have an effect on a homeowners' policy include:

- ➢ Construction of the building
- ➢ Use of the building
- ➢ Location of the building

Construction
The construction of a building provides the insurer with a fair indication of how vulnerable the building is when it comes to certain perils. It also provides insight into how large the expected loss may be should the peril occur. For example a home with a thatch roof is seen as a high risk for fire as the dry grass is more likely to catch fire and also acts as an accelerant which would mean that the fire would spread much faster than for example a tiled roof home. The loss is therefore more likely to be suffered and to be more severe.

Use of building
This refers to the activities and individuals living in the building.

For example, a building with tenants is much more likely to be neglected and damaged by the occupants than a building where the owners are living as the owner would want to protect his investment.

Location of the building
The location refers to the physical situation of the insured property. This could refer a location which is conducive to high crime such as areas with a statistical high crime rate, or possibly areas with open fields and isolated areas. It could however also refer to areas where the insured property is exposed to environmental risks. For example the risk of flood is significantly increased for a home built on the banks of the Vaal River.

The rate applied in the above mentioned high risk cases would be higher than usual and the insurer might include additional warranties and excesses in order to ensure that the insured acts with the due care required.

4.2 The concept of average applied to domestic buildings insurance claim for two different scenarios

The Average clause refers to a clause in a policy requiring that, where assets are insured for less than their full value, the insured is required to bear a portion of any loss. The portion of self-insurance is proportionate to the amount by which the assets are under insured expressed as a percentage of its indemnity value, at the time of the loss.

The following formula can be applied to calculate the level of underinsurance:

(Insured Value / Actual Value) x Loss

Average as applied to domestic buildings insurance would be the same as average applied in general insurance.

Average is a policy provision, which has the effect of reducing a claim payment where under-insurance is discovered.

It is important to understand however that in a total loss situation, the full sum insured will become payable. This would be because the client has lost 100% of their property and therefore 100% of his sum insured is payable. He will only carry the portion of the property that was not insured.

To further illustrate this point, we will apply the formula to a total loss situation:

Actual value: R2,000,000
Sum Insured: R1,000,000

(R1,000,000/R2,000,000) x R2,000,000*
= R1,000,000

*Remember, this amounts refers to the value of the loss and NOT the sum insured.

4.3 The consequences of giving incorrect advice in terms of FAIS, Policyholder Protection Rules and Professional Indemnity

If the advisor deals with client money (collecting premiums) an intermediary guarantee fund policy should be in place to protect client premiums.

Implications to the representative and the Financial Services Provider of non-compliance with the requirements of FAIS and other acts:

- Court action may be instituted against any person for non-compliance or contravention for payment of;
  - compensation for losses of other person/s due to the act or omission
  - a penalty not exceeding 3 times profit or loss that might have been gained without the act or omission
  - interest
  - costs

A provider who is found guilty of a contravention of the Act may be fined up to R1,000,000 or 10 years imprisonment or both.

Where there is a likelihood of a contravention of the Act, the regulator may apply for a court order restraining continuation, omission or commission of the act and an order for the provider to take remedial steps to rectify the act or omission.

In the event that a key individual or representative is found guilty of a contravention, they can be debarred. This would mean that the person could not work for an FSP by rendering financial services/giving advice.

Judgements or decisions against an intermediary or a representative would be published on the FSB website and associated parties, such as an employer or another FSP, would be required to take steps to ensure that all other clients of the guilty parties have not suffered losses because of the guilty person.

The Policyholder Protection Rules

Before the introduction of FAIS, these rules - promulgated in terms of the Long and Short-term Insurance Acts - were designed to protect you when you took out a life assurance policy or a short-term (vehicle, home or household) insurance policy.

Some of the provisions of the Policyholder Protection Rules, particularly those relating to what you must be told about these policies, now overlap with those under FAIS.

Professional Indemnity

One of the licensing requirements for financial service providers is the mandatory purchase of Professional Indemnity cover.

Professional indemnity insurance will provide the financial service provider with protection against claims resulting from the provision of incorrect advice. Professional indemnity insurance covers gross negligence, errors and omissions on behalf of the financial service provider. This would mean that the service provider would be able to settle a client's claim without placing the business under financial strain, thus also protecting the rights of any other clients.

4.4 The relationship between excess and premium with examples

Why is an excess payable?

An excess is payable to control the cost of cover and to manage the risk. An excess may be used as an instrument to help keep your premium lower if you elect to take a higher excess.

If you wish to reduce your excess then some insurers will give you the option to take out a policy to take an excess waiver extension for an additional premium. This will in effect reduce or eliminate the excess payable by the insured.

When another person negligently causes damage to your property the insurer can elect to recover the cost of the damages from that person. As a service to you, the insurer will often attempt to recover your excess in addition to the loss even though the excess is for your account.

How can you obtain reduced premiums?

Discuss with your insurance adviser or insurer any security features that you believe may entitle you to a premium reduction. These would normally be in addition to the minimum protection requirements required by an insurer. They may differ from region to region. Some of the things that might affect your premium are:

- Your age
- Whether or not you store certain items of value in a safety deposit box
- Whether or not you are living in a 'secured living' environment
- What you use the vehicle for, i.e. private or business purposes
- Whether or not you have proof of "No claims" from your previous insurer
- Your claims history
- Voluntary excesses

There are many other features that could attract a discount. Ask what they are.

Module 5

Personal Liability Insurance

This Module deals with:

- The concept of personal liability is explained with examples of cover under a domestic buildings policy
- The cover provided under a personal/personal policy from a specific policy
- Exclusions under a personal liability personal policy analysed from a policy document
- The difference between property owners and tenants liability as it applies to personal liability

5.1 The concept of personal liability is explained with examples of cover under a domestic buildings policy

Some insurers provide liability cover under the home owners' policy extensions, whilst others provide for this as part of the personal line wording or as part of a separate personal liability section.

Personal liability covers the insured and members of the insured's household who live with the insured, where they are legally responsible for the following:

- Accidental death or bodily injury to people other than members of the insured's household or domestic employees
- Accidental loss of or damage to property belonging to people other than members of the insured's household or domestic employees

This cover will include legal costs which someone can recover from the insured and which the insurer will agree to in order to settle or defend a claim against the insured.

Determining liability cover

In order to gain a clear understanding of the liability cover offered by a specific insurer the policy wording of that insurer needs to be analysed.

Indemnity

If the policyholder becomes legally liable to pay compensation for:

- accidental death,
- injury or
- illness

- to persons or
- accidental damage to or
- loss of property

occurring during the period of insurance, and arising as a private individual the insurers will indemnify the policyholder up to the specified limit.

There is no cover for liability arising out of business or employment.

5.2 The cover provided under a personal policy for a specific policy

The personal liability section of the policy provides cover for a number of additional liability type events, albeit sometimes limited cover. These include amongst others:

Liability to domestic employees

If you are legally liable, we will pay if your domestic employee is injured or dies because of an accident at your home while he/she was working.

You will not be indemnified against the following:

- Fire damage to a thatched-roof building
- Fire damage if your home or outbuildings have a thatched roof, unless the schedule states that it is covered.
- Damage to non-approved buildings
- Any damage if the relevant local authority did not approve or would not have approved the construction of the building.
- Liability claims for death, injury or damage caused by, resulting from, or due to:
  - 1 the ownership, possession or use of lifts or vehicles; or
  - 2 the pursuit or exercise of any trade, business or profession.

Security Companies / Garden Services

In terms of this, the assumed liability exclusion is not applicable to liability assumed in terms of a written contract entered into with any entity providing security or armed response services, in respect of property insured.

Wrongful Arrest

If you become legally liable to pay compensation for damages resulting from the wrongful arrest or wrongful searching of any person (including assault in connection therewith) we will indemnify you up to R100 000 (one hundred thousand Rand) for any one claim or series of claims arising out of one event.

5.3 Exclusions under a personal liability personal policy analysed from a policy document

Liability cover is exactly the same as other short term insurance policies in that it will also have various exclusions. These exclusions may relate to activities, use, possession or ownership. It is important to note the exclusions relevant to the specific insurer's policy.

We now look at the specific exclusion that applies to the Liability Policy.

Family Member

There is no cover for liability in respect of

- death of or
- bodily injury to or
- illness of

any person who is a member of the insured's household or family whether residing with the insured or not.

Custody and Control
Loss or damage to property in the custody and control of the policyholder or his domestic servant is excluded.

The property of guests is not specifically excluded by this exception, but this does not imply that liability for guests' property is covered. Insurers may argue that the property of guests is in the custody of the policyholder while it is on his premises.

Professional Liability
Legal liability arising directly or indirectly from the policyholder's profession, employment or occupation. The word "indirectly" gives this exclusion extremely wide meaning and must be interpreted correctly. Remember that "policyholder" includes all members of the family normally resident with the insured. Therefore liability arising out of part-time employment of a child is excluded.

The policy wording does not state that occupation or employment must be full-time or that self-employment does not fall into the exclusion. If insurers define employment as broadly as an “activity for reward”, then even side-lines and paying hobbies would be excluded.

Liability to Employees
Liability to any one

- under a contract of service or
- apprenticeship with the insured
- which arise out of their employment

is specifically excluded. Therefore there is no cover here for liability to domestic servants or gardeners, except as defined under the householder’s policy.

Motor Vehicle and Animals
Liability arising from the use of any

- mechanically propelled vehicle
- trailer
- animal drawn vehicle
- animal (other than a horse, dog or cat)
- aircraft
- watercraft (other than a row boat, surf board, paddle ski or canoe)

Some policies use the term “mechanically propelled” vehicle, which would of course exclude liability arising from the use of a pedal cycle. Others however specifically refer to motor vehicles in which case pedal cycles would be covered.

Other Buildings
Liability arising from the

- ownership,
- tenure,
- possession or
- use of any land or buildings

by or on behalf of the insured is excluded. This would be property owner's liability which would fall either under the House owners section or if owned by the insured as a business would require Public Liability cover in terms of a business policy.

Contractual Liability
Liability accepted by agreement, which would not have attached in the absence of the agreement is, contractual liability. However, contractual liability in terms of agreements with security firms are, as we have seen, not been excluded.

Tenants Liability may conflict with this exclusion, because the liability of the tenant to his landlord is often spelled out in the lease, which is legally binding on the tenant.

We must remember though that this is insurance of legal liability - delictual liability - and not contractual liability. For this reason, liability that would have attached to the policyholder notwithstanding the lease or contract - that is, at common law - will be covered.

Conclusion
Insurers' wordings vary and some insurers have different and/or additional exclusions to these. For example some insurers exclude liability arising from:

a) the use of fire arms;
b) lifts or elevators;
c) intentional acts;
d) seepage and pollution unless arising from an unintended and unexpected event;
e) punitive, exemplary or vindictive damages, fines or penalties;
f) costs and expenses subsequent to the date on which the Company has paid or offered to pay the full amount of the claim.

e) and f) are particularly important.

In a number of cases in other countries judges have awarded damages for medical expenses, loss of earnings etc., but have added on an amount for punitive damages. If a judge was to apply punitive damages in South Africa and e) was written into the policy the insured would be liable for these costs himself.

In the case of (f) if the insured delays or anyway causes additional expenses, such as interest payable to the third party, these costs would be for the insured's account.

It should therefore be obvious that individual wordings should be examined by the intermediary and the client very carefully.

5.4 The difference between property owners and tenants liability as it applies to personal liability

Liability cover under the contents and buildings section is very similar. Property owner's liability falls under buildings cover and tenant's liability falls under contents cover. As such a person who stays on the property he owns will have no need for liability cover as a tenant.

With tenant's liability the client will be covered for all amounts, which the client is legally liable to pay to his landlord arising from accidental loss of or damage to the rented building where the client is living permanently.

The insured is the policyholder and members of the policyholder's family normally resident with the policyholder.

If the policyholder becomes legally liable to pay compensation for

- accidental death,
- injury or
- illness

to persons or

- accidental damage to or
- loss of property

occurring during the period of insurance, and arising as a private individual the insurers will indemnify the policyholder up to the specified limit. There is no cover for liability arising out of business or employment.

Limit of Indemnity
The limit of indemnity under these policies is normally substantial with anything between R1 000 000 and R10 000 000 being the norm. The insured requires a large limit as court awards are increasing and any award over the policy limit will be for the insured's own account.

It is not just the amount the third party is awarded that is covered and we look at the various other items covered under this policy.
Legal costs and expenses incurred with the insurer's consent are also covered.
The costs and expenses would be

- those involved in investigating the circumstances of the claim;
- legal defence costs;
- assessor's fees;
- the cost of witness travelling expenses, et cetera.

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