

**BI INSURANCE TEST CASE**  
**CONTENTS LIST FOR HIGH COURT JUDGMENT**

This table is intended to help policyholders navigate the [High Court judgment](#) in the BI insurance test case. It refers to subheadings used in the judgment, but the judgment (and the [High Court declarations](#)) should be referred to for the High Court’s full intention and effect. This table is not definitive or legally binding.

<b>Paragraphs</b>	<b>Subtitle and content</b>
1-8	<b>A - Introduction</b> – procedural history
9	<b>B - Factual Background</b> – introduction
10-16	Developments between December 2019 and February 2020
17-33	Developments in March 2020
34-37	The 21 March Regulations
38-43	Further developments in March 2020
44-52	The 26 March Regulations
53	Categories of business into which policyholders fall
54-60	Subsequent developments between April and July 2020
61	<b>C – Principles of Construction</b> – introduction
62-66	General principles
67-70	Ejusdem generis and noscitur a sociis
71-74	Contra preferentem
75-79	The relevant background
80-81	<b>D – Disease Clauses</b> – introduction
82	The RSA 3 policy wording
82-90	RSA 3: The policyholders and the wording
91-92	RSA 3: The parties’ positions
93-113	RSA 3: What is covered?
114-118	RSA 3: General Exclusion L
119-122	RSA 3: The ‘trends clause’
123	The RSA 4 policy wording
123-127	RSA 4: The policyholders and the wording
128-135	RSA 4: The parties’ positions
136	RSA 4: Discussion
137-140	Vicinity
141-147	The Disease outside the Vicinity
148	Standard Turnover
149	The Argenta policy wording
149-152	Argenta: The policyholders and the wording
153-156	Argenta: The parties’ positions
157-165	Argenta: Cases outside the Radius – Cover and Causation
166	Argenta: Exclusion (iii)
167-168	Argenta: The ‘trends clause’
169-172	Argenta: Interruption
173-174	Argenta: Pre-notifiability losses
175	The MS Amlin 1-2 policy wordings
176-184	MSA 1-2: The policyholders and the wordings
185-188	MSA 1-2: The parties’ positions
189-199	MSA 1-2: Discussion
200	The QBE 1-3 policy wordings
201-215	QBE 1-3: The wordings

216-222	QBE 1-3: The parties' positions
223	QBE 1-3: Discussion
224-229	QBE 1
230-235	QBE 2
236-238	QBE 3
239-241	'Trends clauses'
242	<b>E – Hybrid Clauses</b> – introduction
243	The Hiscox 1-4 policy wordings
243-253	Hiscox 1-4: The policyholders and the wordings
254-265	Hiscox 1-4: The parties' positions
266	Hiscox 1-4: Discussion
266-274	Coverage
275-283	Trends clause and counterfactual
284	The RSA 1 policy wording
284-287	RSA 1: The policyholders and the wording
288-293	RSA 1: The parties' positions
294-296	RSA 1: Discussion
297-298	Trends clause and counterfactual
299	RSA 4: The 'enforced closure' clause
299	The RSA 4 policy wording
300-302	'Enforced Closure': The parties' positions
303-304	Discussion
305	The Counterfactual and the Standard Turnover Provision
306	<b>F – Prevention of Access and similar wordings</b> – introduction
307	The Arch policy wording
307-308	Arch: The policyholders and the wording
309	Arch: The insured peril
310	Arch: Common ground
311-323	Arch: The parties' positions on coverage
324-336	Arch: Discussion in relation to coverage
337-340	Arch: The trends provision and the counterfactual
341-344	Arch: The parties' positions on the trends provision and the counterfactual
345-351	Arch: Discussion of the trends provision and the counterfactual
352	The Ecclesiastical Insurance Office policy wordings
352-357	EIO: The policyholders and the wordings
358-372	EIO: The parties' positions on coverage
373-377	EIO: Discussion in relation to coverage
378-384	EIO: Causation and the counterfactual
385-389	EIO: Discussion of causation and the counterfactual
390	The Hiscox NDDA clause
390-392	The Hiscox NDDA clause: The policyholders and the wording
393-403	The Hiscox NDDA clause: The parties' positions
404-418	The Hiscox NDDA clause: Discussion
419	The MSA policy wordings
419-421	MSA: The policyholders and the wordings
422-430	MSA 1: The parties' positions on coverage
431-437	MSA 1: Discussion in relation to coverage
438	MSA 2: The parties' positions
439	MSA 2: Discussion
440-442	MSA 3: The parties' positions

443-444	MSA 3: Discussion
445	The RSA policy wordings
445-455	RSA: The policyholders and the wordings
456-461	RSA 2.1-2.2: The parties' positions
462-467	RSA 2.1-2.2: Discussion
468-470	RSA 4: The parties' positions
471-472	RSA 4: Discussion
473-474	RSA 4: The parties' positions on the trends provision and the counterfactual
475-476	RSA 4: Discussion
477	The Zurich policy wordings
477-480	Zurich: The policyholders and the wordings
481-493	Zurich AOCA clause: The parties' positions
494-502	Zurich AOCA clause: Discussion
503-535	<b>G – Causation</b>
536	<b>H – Prevalence</b> – introduction
537-540	The Court's role
541	The types of proof
542	Specific evidence
543-544	NHS Deaths Data
545-547	ONS Deaths Data
548-	Reported cases
552	Proposed methodologies to be applied to the available data
553-556	Averaging methodology
557-560	Undercounting
561-566	Satisfying the burden of proof
567-568	Conclusions as to prevalence
569-573	Types of evidence
574-579	Satisfying the burden of proof
580	<b>Conclusion</b>