



CILEX Level 3 Professional Diploma in Law and Practice

Unit 2 - Contract Law

June 2023

Question Paper

Time allowed: 1 hour and 45 minutes (includes 15 minutes reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B.
- You must answer **all** questions from Section A.
- There are three scenarios in Section B — you must choose **one** scenario and answer **all** questions relating to that scenario.
- This question paper is out of 70 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- You are **not** allowed access to any statute books.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

SECTION A

Answer all questions.

1. Define a contract.
(3 marks)
2. Explain what a unilateral contract is, and how it may be formed.
(5 marks)
3. Define consideration.
(2 marks)
4. (a) Identify the presumption regarding intention to create legal relations in social agreements.
(1 mark)

(b) Explain **one** way in which the presumption may be rebutted, using a case to support your answer.
(3 marks)

(Total: 4 marks)
5. Define a warranty, and explain what remedies are available for the breach of it.
(3 marks)
6. Explain the term implied by s.13 Sale of Goods Act 1979.
(2 marks)
7. Identify **three** bars to rescission for misrepresentation.
(3 marks)

8. (a) Describe the 'entire' or 'complete' performance rule from *Cutter v Powell* (1795).
(1 mark)

(b) Identify **three** exceptions to this rule.

(3 marks)

(Total: 4 marks)

9. Identify **two** remedies under the Consumer Rights Act 2015 available to a consumer for breach by a trader of a contract to provide services with reasonable care and skill.
(2 marks)

10. Explain what is meant by a non-pecuniary loss and give an example.

(2 marks)

(Total Marks for Section A: 30 marks)

Turn over

SECTION B

There are three scenarios — you must choose one scenario and answer all questions relating to that scenario.

Scenario 1

Daleside Distribution Ltd ('Daleside') runs a fleet of 40 vans. It uses them to distribute 'white goods', such as fridges and dishwashers, for well-known retailers such as Greens and AB.com.

In September 2022, Daleside entered into a one-year contract with Mayton Garages Ltd ('Mayton') for the maintenance of Daleside's fleet of vans. Two of the terms of that contract were as follows:

- 3.1 Mayton agrees to maintain Daleside's fleet of 40 vans in a roadworthy condition for the duration of the contract.
- 4.5 Clause 3.1 of this contract shall be enforceable by the retailers, including Greens and AB.com, with whom Daleside has distribution contracts.

For the first three months of the contract, all the vans worked well. However, in December 2022, three of the vans broke down as a result of maintenance failures. In order to complete Daleside's deliveries while the vans were being repaired, Mayton paid for Daleside to hire other vans at a cost of £2,000.

For a period after that, the vans all worked well again. However, at the beginning of May 2023, a large number of the vans suffered engine failures as a result of Mayton's mechanic using the wrong type of oil in the engines. Mayton has since managed to repair some of them, but currently only 18 vans are roadworthy.

As a result of these failures, Daleside has had to hire other vans to complete its deliveries, at a total cost of £10,000. The failures have led to delays and disruption, causing AB.com to terminate its contract with Daleside. This has cost Daleside £20,000 in lost profit.

Daleside has also missed out on a profitable contract that it was negotiating with a national retailer. When the national retailer heard about Daleside's problems, it decided to use a different distributor for its goods. Daleside estimates that it would have made £80,000 profit from this contract.

Scenario 1 Questions

1. (a) Explain what an innominate term is and how it differs from a condition.
(6 marks)
- (b) Explain whether clause 3.1 of the contract is a condition or an innominate term.
(4 marks)
- (c) Explain whether any remedies are available to Daleside as a result of the breakdown of the three vans suffered in December 2022.
(5 marks)
- (Total: 15 marks)**
2. Explain what is meant by 'remoteness of loss' and the principles which govern whether a loss is too remote.
(5 marks)
3. Explain what damages Daleside can claim as a result of the engine failures from May 2023 onwards.
(7 marks)
4. Explain whether Daleside is now entitled to terminate its contract with Mayton.
(3 marks)
- 5 (a) Explain what is meant by 'privity of contract'.
(4 marks)
- (b) Explain whether clause 3.1 of the contract between Mayton and Daleside is enforceable by AB.com if it suffers any losses as a result of Mayton breaching the contract.
(6 marks)
- (Total: 10 marks)**

(Total Marks for Scenario 1: 40 marks)

Turn over

Scenario 2

Ravi breeds Persian cats. He has one kitten, Shadow, left from a recent litter.

On 5 December 2022, Ravi emailed Petra: 'I'll sell Shadow to you for £250. Cash on collection. I'll leave this proposal open until Friday 16 December. Drop me an email or a letter if you want her. Photo attached.'

On 9 December, Petra emailed Ravi: 'Has Shadow had her inoculations and is she a pedigree cat?'

Ravi, concerned that Petra might not want Shadow, decided to look for another buyer. On 10 December, Ravi emailed Golda offering to sell Shadow to her for £250, and asking her to reply by post or email by 16 December.

Petra, having received no reply to her email of 9 December, emailed Ravi again on 12 December: 'Shadow looks so adorable, I'll have her anyway. Will bring the money on Friday, 16 December.' Unfortunately, Ravi did not notice this email in his inbox.

On 12 December, Golda posted a letter to Ravi reading: 'I agree to pay £250 for Shadow. I'll collect her on Friday, 16 December.' Golda's letter did not arrive until 19 December.

By 15 December, Ravi was concerned that he was not going to sell Shadow, so he was delighted when Felicity rang up and agreed to buy Shadow for £400, with payment in four weekly instalments of £100.

Petra and Golda both turned up on 16 December to collect Shadow and were disappointed to be told she had already been sold.

When Felicity made her third payment, she asked if she could be let off the final instalment of £100. Ravi refused but agreed to reduce the payment to £60 if Felicity paid it there and then. Felicity did so immediately.

After Felicity had paid the £60, she asked Ravi about Shadow's temperament. Ravi promised Felicity that Shadow was a good-natured kitten.

A week later, Ravi changed his mind about letting Felicity off the balance, and asked Felicity for the remaining £40.

Shortly after that, Shadow attacked Felicity and badly scratched her face.

Scenario 2 Questions

1. Explain whether Ravi's email to Petra is an offer or an invitation to treat.
(7 marks)
2. Explain whether an agreement has been reached between Ravi and Petra for the sale of Shadow.
(10 marks)
3. Explain whether Golda has accepted Ravi's offer to sell Shadow.
(9 marks)
4. Explain:
 - (a) whether part-payment of a debt is good consideration;
(4 marks)
 - (b) whether Felicity has to pay the balance of £40 to Ravi.
(3 marks)**(Total: 7 marks)**
5. Explain:
 - (a) whether past consideration is good consideration;
(4 marks)
 - (b) whether Felicity has provided good consideration for Ravi's promise that Shadow was a good-natured kitten.
(3 marks)**(Total: 7 marks)**

(Total Marks for Scenario 2: 40 marks)

Turn over

Scenario 3

Gemma recently decided to sell her fish and chip shop business and put a 'For Sale' sign outside the shop. Angus saw the sign, went into the shop and enquired about buying the business. He said it was important to him to buy a profitable business. Gemma explained about her business to Angus and how, over the last three years, it had made substantial profits.

Gemma told Angus that if he wanted to buy the business he should act quickly, because the business was being put up for auction the following week. In fact, if Gemma had taken the time to read the letter she had received from her selling agent, she would have discovered that she was mistaken, as the auction had been cancelled three weeks earlier.

Angus considered the matter for a couple of days. Concerned that he might miss out if the business was sold at auction, he went back to Gemma and agreed to buy the business. Angus and Gemma negotiated a price, and exchanged copies of a 'memorandum of sale' which stated:

'Sale, to Angus Daley, for £100,000, Gemma's fish and chip shop business, including lease, contracts, stock and goodwill. Profits averaging £30,000 a year over the last three years.'

After buying the business, Angus was shocked to discover that the premises belonging to the business had no parking facilities, which he had assumed that they would have. As a result, it was difficult to attract new customers. He also discovered that the auction had been cancelled, so there had been no rush for him to buy the business.

Scenario 3 Questions

1. (a) Define misrepresentation.

(3 marks)

(b) Explain whether Gemma's statement that the business was being put up for auction the following week was a misrepresentation.

(4 marks)

(Total: 7 marks)

2. Assume for the purposes of Question 2 that Gemma's statement about the auction is a misrepresentation:
(a) explain what type of misrepresentation it is;

(7 marks)

(b) explain the remedies available to Angus for this misrepresentation.

(6 marks)

(Total: 13 marks)

3. (a) Identify **three** factors which are considered by the courts to distinguish a representation from a term of a contract.

(3 marks)

(b) Explain whether the statement that 'Profits averaging £30,000 a year over the last three years' is a term of the contract between Gemma and Angus.

(5 marks)

(Total: 8 marks)

4. (a) Identify **three** circumstances in which silence may amount to a misrepresentation.

(3 marks)

(b) Explain whether Gemma's omission to tell Angus about the lack of parking facilities is a misrepresentation.

(3 marks)

(Total: 6 marks)

Turn over

5. (a) Explain how a term may be implied by the courts on the particular facts of a case.
(3 marks)

(b) Explain whether a term that the business would have parking facilities would be implied by the courts into the contract between Gemma and Angus.
(3 marks)

(Total: 6 marks)

(Total Marks for Scenario 3: 40 marks)

End of the examination

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