

THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 2 – CONTRACT LAW*

Time allowed: 1 hour and 30 minutes plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

SECTION A

(Answer ALL questions in Section A)

1. Identify the **two** elements giving rise to an agreement. **(2 marks)**
2. Explain what is meant by a 'unilateral contract'. **(4 marks)**
3. Distinguish between executory and executed consideration. **(2 marks)**
4. Explain the presumption regarding intention to create legal relations in commercial agreements, and explain **one** situation in which the presumption may be rebutted. **(4 marks)**
5. Identify the statute under which terms are implied into a contract between businesses for the sale of goods. **(1 mark)**
6. Explain what is meant by a warranty in a contract. **(3 marks)**
7. Explain what is meant by a 'half-truth' in the context of misrepresentation. **(3 marks)**
8. Explain the 'entire performance' rule, and identify **two** exceptions to the rule. **(4 marks)**
9. Define 'frustration of a contract'. **(3 marks)**
10. Explain the rules governing remoteness of damage for breach of contract. **(4 marks)**

(Total Marks for Section A: 30 marks)

SECTION B

(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)

Scenario 1

Winona and her friend Maryam were both looking to buy new cars. They visited Motazoo on Monday morning, where they viewed a number of cars.

Later that day, Winona sent an email to Motazoo, saying, 'I would like to buy the blue Blandara Manx for around £15,000 on hire-purchase terms'. She received a reply from Motazoo, saying, 'Thank you, and we are delighted to accept your order'.

Winona has now received an invoice for the Blandara Manx, which she did not expect.

On Tuesday, Maryam received an email from Motazoo about the red RVT sports car she had been looking at. It said, 'We can offer you the red RVT for £20,000. We have some customers coming to see it on Thursday, so if you want to buy it, you must accept this offer by 5.00 pm on Wednesday.'

Maryam decided to buy the RVT. Straight away, she posted a letter of acceptance, which was properly addressed and stamped. The letter arrived at Motazoo on Thursday morning.

Also, as a keen gamer, Winona had recently entered into a contract with Softco for the supply of software for her new home gaming system, at a cost of £5,000. Unfortunately, the software was not fit for its purpose, as it could not play the specified games quickly enough. This caused Winona a great deal of frustration and disappointment, as she kept having games interrupted. In addition, a virus in the software damaged some of Winona's other files and infected the hard disk on her gaming computer, though if Winona had taken notice of an anti-virus alert, the hard disk would not have been infected.

A week ago, Maryam entered into a contract to buy a new house for £400,000 from Pink Rose Property Development. However, she has now decided that she does not want to proceed with the purchase.

Scenario 1 Questions

1. (a) Explain what is meant by 'certainty of terms' in a contract.

(3 marks)

(b) Explain whether Winona is obliged to purchase the Blandara Manx car from Motazoo.

(5 marks)

(Total: 8 marks)
2. (a) Explain the Postal Rule.

(5 marks)

(b) Explain the effect of lapse of time on an offer.

(3 marks)

(c) Explain whether there is a contract between Motazoo and Maryam for the sale of the red RVT sports car.

(7 marks)

(Total: 15 marks)
3. (a) Identify **four** remedies which may be available for breach of a consumer contract to supply digital content.

(4 marks)

(b) Explain what compensation Winona may be entitled to as a result of the lack of fitness for purpose of Softco's software.

(9 marks)

(Total: 13 marks)
4. Explain the equitable remedy which may be available to Pink Rose Property Development in respect of the sale of the house to Maryam.

(4 marks)

(Total Marks for Scenario 1: 40 marks)

Scenario 2

Newhouse is a property development company.

The SystemsCo contract

Six months ago, Newhouse entered into a contract with SystemsCo for SystemsCo to process Newhouse's invoices, of which there were about 100 each week. The terms of the contract included the following provisions:

'3.1 SystemsCo agrees to accurately process the invoices supplied by Newhouse for a twelve-month period.'

'5.2 Newhouse must pay the quarterly fee of £3,000 on the first day of each quarter, without fail.'

Six weeks ago, SystemsCo made an error in the processing of two invoices, forgetting to include VAT.

Newhouse has been struggling financially due to the recent decline in the housing market, and has written to SystemsCo to say that this quarter's payment will be a few days late.

The Roundhouse contracts

Newhouse recently entered into three contracts to develop a commercial property, The Roundhouse, with a view to selling it.

- One contract was with Electrico. The contract was to fit out three offices for a total of £100,000, including fitting all electrical appliances with Grade B plugs. Electrico had difficulty in sourcing Grade B plugs. It said that it could complete the offices with Grade A plugs, but that this would cost an additional £5,000. Newhouse agreed, and Electrico finished the offices with Grade A plugs.
- The second contract was with FreshAirCo. The FreshAirCo contract was to fit a new air conditioning system for £250,000. However, labour shortages meant that it was struggling to complete the job on time. FreshAirCo told Newhouse that it would need an extra £20,000, if the job were to be finished on time. Newhouse, mindful that delays in finishing The Roundhouse would delay its sale, agreed that it would pay the extra money. FreshAirCo then fitted the air conditioning on time.
- The third contract was with PlumbingCo, to install a new water system. PlumbingCo completed its contract on time.

Goodhomes bought The Roundhouse a month later. Goodhomes has discovered faults in the water system as a result of defective work by PlumbingCo.

Scenario 2 Questions

1. (a) Distinguish a condition from an innominate term.
(5 marks)

(b) Explain the remedies available to Newhouse for SystemsCo's error in processing two of the invoices.
(6 marks)

(c) Explain the remedies available to SystemsCo as a result of the delay by Newhouse in payment of the most recent quarterly fee.
(5 marks)
(Total: 16 marks)

2. (a) Define 'sufficiency of consideration'.
(3 marks)

(b) Explain the general rule whether performance of an existing contractual duty is sufficient consideration for a promise of extra payment.
(3 marks)

(c) Explain whether Newhouse is obliged to pay the additional £5,000 to Electrico for fitting Grade A plugs.
(4 marks)
(Total: 10 marks)

3. (a) Explain the rule in Williams v Roffey Bros (1991).
(5 marks)

(b) Explain whether Newhouse is obliged to pay the additional £20,000 to FreshAirCo for completing the air conditioning on time.
(6 marks)
(Total: 11 marks)

4. Explain whether Goodhomes can claim damages from PlumbingCo for the defects in the water system.
(3 marks)

(Total Marks for Scenario 2: 40 marks)

Scenario 3

Matilda was a dairy farmer at Woods Farm.

Matilda advertised the farm for sale. Olaposi, who had previously farmed pigs, cows and sheep, visited the farm. He told Matilda how he wanted to buy a farm where different creatures could roam together. Matilda stated that, in days gone by, she used to farm 100 cows at Woods Farm. As a result, Matilda expected that, as well as the 50 cows currently on the farm, there would also be room for about 200 pigs and 100 sheep. Olaposi was pleased to hear that the farm had 50 cows, saying that this was very important to him, as he had none of his own.

Matilda described the cows as 'friendly girls'. She also pointed out that the farm made profits of £70,000 a year.

Olaposi returned two months later. He drew up a 'Memorandum of Sale', stating:

'Sale of Woods Farm, all fixtures, fittings and stocks. £750,000.'

Olaposi and Matilda signed the memorandum, and he took possession of the farm, and moved in his 200 pigs and 100 sheep. Later that day, he was shocked to discover that there were only 40 cows. He was even more shocked to find that there was no tractor.

At the end of the first month, Olaposi bought a tractor and 10 cows. The new cows were not well received by the other cows, who kept attacking them. Unfortunately, it also became clear that there was only room for the 200 pigs on the farm, and Olaposi had to sell his 100 sheep.

When Olaposi examined the farm's accounts, he discovered that it had only made profits of £55,000, not £70,000. Matilda had known that the profits had dropped to £55,000 before the sale, but had deliberately decided not to mention it. Olaposi wrote to Matilda, stating that he intended to keep the farm, but would be suing Matilda.

Scenario 3 Questions

1. (a) Explain what is meant by a 'representation'.
(2 marks)
- (b) Identify **three** factors used to distinguish between a mere representation and a term of the contract.
(3 marks)
- (c) Explain whether the following statements are terms or not:
- (i) that the cows were 'friendly girls';
(3 marks)
- (ii) that there would be '50 cows'.
(6 marks)
(Total: 14 marks)
2. (a) Explain how terms can be implied on the particular facts by the court.
(4 marks)
- (b) Explain whether Matilda is in breach of the contract with Olaposi, by not providing a tractor with the farm.
(4 marks)
(Total: 8 marks)
3. Explain whether Matilda's statement, that she expected that there would also be room for about 200 pigs and 100 sheep, is a misrepresentation.
(3 marks)
4. (a) Explain whether the statement that the farm made profits of £70,000 a year is an actionable misrepresentation.
(6 marks)
- (b) Assuming it to be a misrepresentation, explain what type of misrepresentation it is.
(3 marks)
- (c) Explain the remedies which may be available to Olaposi in respect of it.
(6 marks)
(Total: 15 marks)

(Total Marks for Scenario 3: 40 marks)

End of Examination Paper