



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 1 – 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 two 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 following CILEx qualifications: **LEVEL 4 DIPLOMA IN COMMERCIAL LITIGATION** and **LEVEL 4 DIPLOMA IN DEBT RECOVERY AND INSOLVENCY**

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## SECTION A

### (Answer ALL questions in Section A)

1. Define a contract. **(3 marks)**
2. Distinguish a unilateral contract from a bilateral contract. **(4 marks)**
3. Explain the doctrine of 'practical benefit' as it relates to consideration. **(5 marks)**
4. Explain the basic rule of privity of contract. **(3 marks)**
5. Explain **two** methods of implying a term into a contract. **(4 marks)**
6. Explain whether statements of intention can amount to actionable misrepresentations. **(3 marks)**
7. Identify when a presumption of undue influence will arise. **(3 marks)**
8. Identify **two** types of frustrating events. **(2 marks)**
9. Explain the test for remoteness of loss in contract law. **(3 marks)**

**(Total Marks for Section A: 30 marks)**

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## **SECTION B**

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

### **Scenario 1**

Last summer, Anne, her partner Bruce and their daughter Cinzia decided to take a holiday in the town of Southchester. On arrival in Southchester, Anne visited the Royal Castle Hotel (RCH) and at the reception desk arranged to take two rooms for the week. None of Anne's family had visited Southchester before.

Upon hearing that the hotel had a spa with its own range of beauty products, Anne decided to purchase some skin cream for herself and for Cinzia. Anne spoke to Deborah, the manager of the spa, about what would be suitable, as both Anne and Cinzia suffered from a skin condition that could be exacerbated by certain skin creams.

Deborah was under pressure to sell more products and, in order not to lose the sale, told Anne: 'In that case, the best option would be our Soft as Silk range. I can't possibly imagine that causing any skin problems.' Soon after using the cream, both Anne and Cinzia developed a burning rash on their faces, which took more than a month to subside. Their doctor later confirmed that the rash was caused by the cream that Anne had bought at the spa.

On their final evening, Anne and her family stayed late in Southchester to have dinner at a restaurant. Anne was shocked to find on their return to the hotel that her expensive digital camera had been stolen from her room, where she had left it securely locked in the safe provided. It later transpired that a hotel employee had negligently failed to change the widely-known code for the safe.

When Anne complained to the hotel manager about the theft, he pointed out a sign on the wall in the lobby, next to the reception desk. The sign stated: 'The Royal Castle Hotel takes no responsibility whatsoever for any loss or theft of guests' personal property during their stay, howsoever caused'.

## Scenario 1 Questions

1. Advise RCH whether the notice in the lobby will be effective:

(a) at common law;

**(9 marks)**

(b) under the relevant legislation.

**(6 marks)**

**(Total: 15 marks)**

2. Advise Anne in relation to the skin cream she purchased:

(a) whether Deborah has made an actionable misrepresentation;

**(7 marks)**

(b) if there is an actionable misrepresentation, whether this is a fraudulent misrepresentation;

**(4 marks)**

(c) whether RCH is in breach of the contract.

**(9 marks)**

**(Total: 20 marks)**

3. Advise Cinzia whether she may be able to claim directly against RCH in relation to the face cream, assuming that a breach of contract could be proven.

**(5 marks)**

**(Total Marks for Scenario 1: 40 marks)**

## **Scenario 2**

In 2016, Marcus bought the freehold of 1 Darwin Gardens. The house was in a state of disrepair and Marcus planned to renovate the property. Marcus registered it in the names of himself and his wife Nadia.

Marcus contracted with Olav to redecorate the house, which consisted of ten separate rooms. They agreed on a total price of £7,500 for the redecoration, which involved stripping the existing wallpaper, re-plastering the walls and hanging new wallpaper in each room.

A month later, Olav told Marcus he had finished the job. However, when Marcus inspected the work, he was angry to see that, while eight of the ten rooms had been properly redecorated, in two bedrooms the old wallpaper had been removed but the walls had not been re-plastered, nor had the new wallpaper been hung. Olav refused to return to complete the work as he had begun working elsewhere.

Marcus told his sister Pauline about this problem. Pauline was a professional interior decorator. They agreed that Pauline would rectify Olav's work and Marcus told her that in exchange he would pay her £1,000. Pauline carried out the work to a high standard.

Marcus also contracted with Rashida to install a 2 metre deep pool in the back garden, for a total cost of £15,000. The pool installed by Rashida is only 1.8 metres deep, which makes it too shallow for diving. It would cost £20,000 for the pool to be dug out to a depth of 2 metres.

The renovations ended up costing Marcus more than he had expected and he soon ran out of money. He decided to mortgage the house but Nadia was concerned about taking on that level of debt. Marcus told Nadia that she didn't understand mortgages and finance and that he would make sure she would be alright. Nadia assented and they took out the mortgage with Queensbridge Bank.

It is now 2018 and Marcus's money problems have worsened. As he has not kept up with the mortgage repayments, Queensbridge Bank has threatened possession proceedings. Marcus has also failed to pay either Olav or Pauline any of the money he had promised.

## Scenario 2 Questions

1. Advise Olav whether he may recover some or all of the £7,500.  
**(10 marks)**
  
2. Advise Marcus whether he must pay Pauline the £1,000.  
**(6 marks)**
  
3. Advise Marcus how the court would assess a claim for damages against Rashida.  
**(7 marks)**
  
4. Advise Nadia:
  - (a) as to her chances of successfully establishing undue influence by Marcus;  
**(10 marks)**
  
  - (b) if she is successful in this claim, whether this will prevent the Bank from taking possession of 1 Darwin Gardens.  
**(7 marks)****(Total: 17 marks)**

**(Total Marks for Scenario 2: 40 marks)**

**End of Examination Paper**

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