



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 2 – CONTRACT LAW*

Time allowed: 3 hours 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.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Contract, Tort & Restitution 2017-2018, 28th edition, Francis Rose, Oxford University Press, 2017.**
- 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 6 CERTIFICATE IN LAW** and the **LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

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SECTION A
(Answer at least one question from this section)

1. Analyse the approach of the courts to contracts made:
- (a) in a social or domestic context; **(9 marks)**
 - (b) in a commercial context; **(10 marks)**
 - (c) with public bodies. **(6 marks)**
- (Total: 25 marks)**

2. Critically evaluate the tests developed by the court to imply a term 'in fact'.
- (25 marks)**

3. Critically analyse the available remedies for an actionable misrepresentation.
- (25 marks)**

4. Critically explain the requirement for 'strict' or 'entire' performance of contractual obligations, and when a party may discharge the contract or recover damages under it despite not performing their strict obligations.

Do not discuss the doctrine of frustration in your answer to this question.

(25 marks)

Turn over

SECTION B
(Answer at least one question from this section)

Question 1

Andy decided to sell his vintage Rolls-Royce car. He placed an advertisement in 'Car Enthusiast' magazine on 1 May.

The advertisement stated:

'For sale: vintage RR Corniche, 1970s. In excellent condition and only 70,000 miles. Serious offers only. Price: £60,000.'

The advertisement went on to give a PO Box number and an email address.

Benjani saw the advertisement and was very interested in purchasing the car. As he did not own a computer, he sent a letter on 4 May to Andy's PO Box, stating that he would be willing to purchase the car for the quoted £60,000.

The following day, 5 May, Cristina also saw the advertisement. She immediately emailed Andy, asking him if he had sold the car yet, and suggesting that if he had not, she would buy it for £50,000. Later that day, Andy replied and told Cristina that he had not sold the car, but would be willing to let her have it for £55,000.

Cristina did not have the extra £5,000 that Andy had asked for, and so emailed him asking if she could pay £50,000 upfront and the remaining £5,000 next month.

On 6 May, Derek emailed Andy at 11am and enquired after the car. Andy replied, asking for £55,000. At 3pm, Cristina found out that she had won £5,000 on a lottery ticket. She immediately emailed Andy, asking him to disregard her previous email and telling him she wanted to accept the price of £55,000.

At 5pm on 6 May, Derek replied to Andy's email agreeing to buy the car for £55,000. The next day, 7 May, Benjani's letter arrived in Andy's PO Box.

Advise Andy whether any valid contracts have been made for the sale of the car.

(25 marks)

Question 2

Franz was the owner and proprietor of the Kempston Café, a fashionable London restaurant. In October 2016, he advertised on a number of websites for two new waiting staff, who would each be paid a salary of £22,000 per annum, plus tips.

Gloria saw the advertisement and applied for the job. She had actually worked in a more senior position in a number of restaurants, and Franz was so impressed with her CV and interview that he hired her straight away, providing her with a 12-month contract.

Harry also heard about the jobs and, as he wished to pursue a career in the catering industry, he applied. Franz interviewed Harry and hired him also, on the same terms as Gloria.

Over the last year, the Kempston Café has become increasingly popular, with almost double the number of diners most evenings as compared to 2016. In May 2017, Gloria came to Franz to suggest that he hired more staff, as she was finding it difficult to cope with the additional numbers. Gloria hinted that if Franz did not find more waiting staff, she may have to consider leaving to work elsewhere.

Franz decided against this, but offered Gloria a 'bonus' of £8,000, if she continued to work for him until October 2017. She remained at the café until October, but Franz has refused to pay the bonus.

Franz met with Harry in October 2017, to discuss renewing his contract. He was very pleased with Harry's work, especially in inventing new cocktails to serve, and so offered him £1,000 as a 'thank you'. Franz told Harry that unfortunately he could not afford to renew his contract at his current wages, but that if Harry agreed to work for another month, Franz would give him a painting that hangs in the restaurant and which Harry had always admired. The painting was painted by Franz's grandmother and had a negligible monetary value. Harry liked the painting so much that he was willing to agree to Franz's offer.

Franz has failed to give Harry either the £1,000 or the painting.

Advise Gloria and Harry as to any claims they may have against Franz.

(25 marks)

Turn over

Question 3

Lisa was pleased to hear from her daughter Mary that she had decided to become a doctor. Lisa had always hoped that one of her children would enter the medical profession and so decided to do what she could to support Mary's ambition.

As Mary could not afford the fees, Lisa entered into an agreement with Withdean University for Mary to attend this institution to study Medicine. It was an express term of the written agreement that Mary would be provided with four years of teaching, with 30 weeks of teaching offered each year.

Lisa also decided to buy Mary some materials to help with her course. She went to Withdean Books, a bookshop owned and operated by Withdean University, because Mary had told her they were 'by far the best'. Lisa purchased £600 worth of textbooks, to be delivered when in stock. Nate, the sales assistant who processed Lisa's transaction, was not aware that she was buying the books for her daughter.

Concerned that her other daughter, Olivia, would feel left out, Lisa booked a holiday for herself, Olivia and Olivia's husband Peter. The holiday was arranged with Superstar Escapes, who owned the 'luxury hotel' that Lisa booked, and cost £3,000. Unfortunately, the holiday was a disaster, after their 'luxury hotel' turned out to have a severe cockroach infestation and Olivia and Peter suffered from food poisoning after eating in the hotel restaurant.

A year into Mary's degree, Withdean University informed her that it planned to provide just 10 weeks of teaching for each of the remaining years of her degree. Withdean Books has failed to deliver any of the textbooks that Lisa purchased, but Lisa has fallen out with Mary and refuses to make any claim against the bookshop.

Advise:

(a) Lisa what she may recover from Superstar Escapes;

(7 marks)

(b) Mary if she may seek to enforce the contracts with Withdean University and Withdean Books;

(10 marks)

(c) whether Mary's position would change if Lisa died and Mary was appointed executrix of her estate.

(8 marks)

(Total: 25 marks)

Question 4

Hoping to lose some weight, Tia visited the Crazy Fitness gym in her local town centre. She met with Usman, a personal trainer and employee of the gym, who explained the various benefits of membership to her. Tia expressed her interest in joining, at which point Usman gave her a pre-written 'Gym Member agreement' and asked her to sign this contract.

On reading through the contract, Tia noticed a term which stated: 'Crazy Fitness will not be liable for any health problems caused or exacerbated by personal training sessions'. Tia asked Usman what this clause meant, to which Usman replied, 'Oh, that only applies if you're over 60'. As Tia was 26, she felt reassured and signed the contract.

Tia began to visit the gym twice per week and enjoyed her workouts. Hoping to improve her regime, she then booked a personal training session with Usman. Before the session, Tia removed her expensive diamond necklace and placed it in a locker in the locker room. To operate the locker, she had to first put a pound coin into a slot on the outside.

During the session, Usman pushed Tia to keep using one of the exercise machines, even after she complained of severe pain.

After the session finished, Tia returned to the locker room to find that the diamond necklace had been stolen from her locker. When Tia complained to the front desk, the receptionist referred Tia to a sticker on the inside of the door to her locker, stating that: 'Crazy Fitness will not be liable for any theft or damage to belongings stored in this locker'.

Tia had used the lockers on her previous two visits to the gym. She remembers the sticker, although she does not recall reading it. She has visited her GP, who has told her that she has torn a ligament and the damage was badly exacerbated by continuing to exercise.

Advise Crazy Fitness as to whether either of its exclusion clauses:

(a) has been incorporated into the contract;

(14 marks)

(b) is valid under the relevant legislation.

(11 marks)

(Total: 25 marks)

End of Examination Paper

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