



## 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 2018-2019, 29th edition, Francis Rose, Oxford University Press, 2018.**
- 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. Critically evaluate to what extent the Contracts (Rights of Third Parties) Act 1999 was necessary, given the wide range of common law exceptions to the doctrine of privity.  

**(25 marks)**
  
2. Critically analyse the development of the legal principles relating to restraint of trade clauses.  

**(25 marks)**
  
3. Critically analyse:
  - (a) how the courts have attempted to develop the test for remoteness of damages;  

**(15 marks)**
  
  - (b) when the courts may award damages for non-financial loss (i.e. damages that do not reflect lost profits, a difference in value, or cost of cure).  

**(10 marks)**

**(Total: 25 marks)**
  
4. Critically evaluate how the courts will distinguish a term from a mere representation, and the effect of this distinction.  

**(25 marks)**

**Turn over**

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

**Question 1**

Annalise recently travelled from her home in London to Newcastle for the wedding of one of her friends. On arriving in Newcastle, she was dismayed to realise that there was a hole in the bottom of her suitcase and that she had lost her jewellery box. The box contained Annalise's antique ring and a pair of diamond earrings, which she had borrowed from a friend to wear to the wedding.

To try to recover the jewellery, Annalise informed the train company and also placed an advertisement in the *Morning Bulletin*, a free newspaper given out at railway stations. The advertisement ran on Monday 10 December and stated:

'LOST. Black jewellery box containing pair of diamond earrings and a silver ring. Lost on train from London to Newcastle, Friday 7 December. Please contact PO Box 201 if found. Reward: £250.'

Colin saw the advertisement and, as he regularly travelled on a stretch of the London to Newcastle line, decided to closely inspect the carriage he travelled in each day.

On Tuesday 11 December, Bilal found the silver ring caught in a gap underneath a seat, where it had fallen out of the jewellery box. He immediately contacted the train company, which got in touch with Annalise and returned the ring. Bilal does not read the *Morning Bulletin*, so was unaware of the advertisement.

On Wednesday 12 December, Annalise told her friend that she had lost her earrings. Annalise was relieved when her friend told her that they were in fact not made of genuine diamonds and had cost only £25. Annalise took out a second advertisement in the Thursday 13 December edition of the same newspaper, stating that the reward was no longer valid. The following day, Colin found the earrings and wrote to Annalise, claiming the reward.

Advise Annalise as to whether she is under any obligation to pay any reward(s).

**(25 marks)**

## Question 2

Emlyn is the owner of a factory on the outskirts of Kempston. After losing a number of large orders in the past six months, he reluctantly took the decision, three weeks ago, to lower the wages of his current staff and to implement a number of redundancies.

This news caused considerable anger among Emlyn's employees and they agreed to hold a strike, including establishing a picket line outside the factory. The purpose of the picket line was to discourage non-striking workers from entering the factory. Emlyn was concerned that the strikers might cause disorder in preventing workers crossing the picket line, and so contacted his friend Farah, the Chief Constable of the local police force. Farah told Emlyn that she did not believe there was a sufficient risk of disorder to justify a police presence. Emlyn insisted that police officers needed to be present, and offered to pay the police force £1,000 per day to provide a police presence during the strike. Farah agreed to these terms.

Gerald, the head of the Human Resources department at the factory, was also concerned about the picket line. Two days before the strike, he spoke to Emlyn and expressed his concern about crossing the picket to come to work. As Emlyn knew that Gerald was vital to implementing the redundancy programme, Emlyn offered him a 'picket bonus' of £500 to attend work during the strike.

Emlyn was also expecting a delivery of raw materials from Harry's Supplies Ltd (HSL), which was scheduled to arrive during the strike. Emlyn contacted HSL to confirm that the delivery would be made as planned, but HSL told him that they had contracted with a third party, Ian, to make the actual delivery. Emlyn spoke to Ian and promised to pay him an additional £500 on top of his fee from HSL, if he made the delivery as scheduled.

Farah provided a detachment of five police officers during the days of the strike. Both Gerald and Ian crossed the picket line as agreed. Emlyn has refused to pay any of the sums promised.

Advise Emlyn as to any possible claims which may be made against him.

**(25 marks)**

**Turn over**

### Question 3

Kempston Cinematography Limited (KCL) is a company which hires film cameras to production companies. In August 2018, KCL entered into a contract with Lightstar Films Plc (LFP) to hire to LFP four high-definition film cameras for a period of four months, at a total cost of £6,000. The contract was signed in person at KCL's offices by Mona, the Managing Director of LFP. As Mona was in a rush, she did not read the contract before signing it.

The contract signed by Mona included the following clause:

'CLAUSE 12: Kempston Cinematography Limited is not liable for any loss suffered as a result of using the products supplied if cameras are at any time exposed to extreme conditions.'

Mona used the high-definition cameras to record the documentary that LFP were making for a major television channel. The cameras appeared to work perfectly during filming but, at the end of filming, Mona was horrified to discover that all of the footage filmed on Camera 3 was severely distorted and could not be used in the documentary. The cost of filming extra replacement footage is around £15,000.

Mona complained to KCL, which examined Camera 3. KCL stated that their examinations suggested the camera was used in conditions outside of the optimal temperature range of 10–25 degrees Celsius. KCL claimed that this meant that Clause 12 prevented any claim by LFP. Mona remembers that they used the camera one day when the temperature was around 28 degrees Celsius.

Due to the problems with Camera 3, Mona needed more time to edit the film. As a result, she returned the cameras to KCL two days later than arranged. KCL drew Mona's attention to a sign posted in the lobby of their offices, which stated: 'If any equipment is returned later than arranged, any liability owed by KCL under that arrangement will be limited to £1,000'.

Advise Mona as to:

(a) whether KCL can rely on Clause 12;

**(15 marks)**

(b) whether KCL can rely on the limitation notice to limit their liability, in the event that they cannot rely on Clause 12.

**(10 marks)**

**(Total: 25 marks)**

#### Question 4

Terese is the owner and proprietor of a dry ski slope in Kempston. At the slope, she runs a small shop selling ski equipment, and also offers lessons on the slope.

In October 2018, Uma visited the slope, looking to purchase a new pair of skis. After browsing the selection available, Uma picked out a set branded 'the Snowblinder Ultimate'. She asked Terese about the skis, and Terese told Uma: 'the Snowblinder Ultimate came top of the most recent customer survey I held'.

Terese also told Uma that Snowblinder Ultimate skis are made from carbon fibre. Terese herself had no idea what material the skis were made out of, but this was something she had read in the latest Snowblinder catalogue. Following her conversation with Terese, Uma decided to purchase the skis.

In November 2018, Vikram visited the ski slope. He had recently decided to learn to ski and booked a course of 10 lessons with Terese. They agreed that at the end of the course, Vikram would pay Terese £500. During their sixth lesson, Terese and Vikram had an argument, and Vikram failed to attend any more lessons. He is now refusing to pay Terese any of the £500.

Uma has since found out that her skis are not made of carbon fibre but of a cheaper material. She has also found out that the customer survey that Terese referred to, where Snowblinder Ultimate was the most popular answer, had actually asked: 'Which pair of skis do you most regret buying?'

Advise Terese as to whether she:

- (a) has made any actionable misrepresentations;

**You do not need to consider the type of any misrepresentations (if any have been made) or potential remedies in your answer to question (a).**

**(14 marks)**

- (b) can recover any money from Vikram.

**(11 marks)**

**(Total: 25 marks)**

**End of Examination Paper**

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