



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**

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SECTION A

(Answer ALL questions in Section A)

1. Identify **three** requirements for the formation of a valid contract.

(3 marks)
2. State the rule of privity of contract.

(3 marks)
3. Explain how lapse of time may terminate an offer.

(2 marks)
4. Explain whether past consideration can be good consideration.

(5 marks)
5. Identify the presumption relating to legal relations in social agreements.

(1 mark)
6. Identify **three** factors that the court will consider, when distinguishing a representation from a term of a contract.

(3 marks)
7. Identify **three** terms which are implied by statute into a contract for the sale of goods.

(3 marks)
8. Explain what is meant by a 'warranty', and state the remedy available for breach.

(3 marks)
9. Define misrepresentation.

(3 marks)
10. Identify **three** exceptions to the 'entire performance' rule from Cutter v Powell (1795).

(3 marks)
11. State what is meant by 'specific performance'.

(1 mark)

(Total Marks for Section A: 30 marks)

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SECTION B

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

Scenario 1

Susan manufactures robots for the farming industry. She had two robots, TM1 and TM2, which were programmed to pick up eggs.

TM1

Susan wanted to generate some publicity for her business, so on Thursday, she put an advert in the *Sidmouth News*, stating:

'Special offer: I will sell TM1 to the first person who comes to my factory next Monday and makes an offer of £50,000 for it written on an egg-shell'.

Carl runs a free-range egg farm, and needed a new robot to collect eggs. On Friday, he emailed Susan an offer of £60,000 for TM1. He stated that he needed it to replace his broken robot, and also to enable him to meet a lucrative egg-supply contract with Omletworld. Susan accepted Carl's offer and sent TM1 to him straight away.

On the following Monday morning, Razwana was the first person to attend Susan's factory. She presented her offer of £50,000 written on an egg-shell. However, Susan told Razwana that her offer was too late, as TM1 had already been sold to Carl.

TM1 turned out to be defective, cracking many of the eggs it picked up. As a result, Carl has not only lost £2,000 worth of eggs, but has also had his contract with Omletworld terminated, costing him £7,000. Carl has suffered great distress as a result.

TM2

Later that week, Jacob made an enquiry about TM2. Susan replied, quoting a price of £80,000, subject to her standard terms and conditions. These included a price-variation clause, providing for a price increase if the cost of components went up before delivery.

Jacob replied, using his own order form for TM2 at £80,000. However, it contained different terms and conditions, with no price-variation clause. It had a tear-off slip for accepting the terms of the order. Susan signed the tear-off slip and returned it to Jacob.

Susan then sent Jacob an invoice for £90,000 for TM2, to reflect increases in the cost of components, but Jacob is refusing to pay more than £80,000.

Scenario 1 Questions

1. (a) Explain what a unilateral contract is, and how it is formed.
(4 marks)
- (b) Explain whether Susan is in breach of any contract with Razwana.
(6 marks)
(Total: 10 marks)
2. (a) Explain the nature and effect of a counter-offer.
(3 marks)
- (b) Explain what is meant by the 'battle of the forms'.
(4 marks)
- (c) Explain whether there is a contract between Susan and Jacob for the TM2 robot and, if so, what price Jacob must pay for it.
(8 marks)
(Total: 15 marks)
3. (a) Explain the purpose of damages for breach of contract.
(2 marks)
- (b) Explain what is meant by 'remoteness of loss' and explain the principles which determine whether a loss is too remote.
(4 marks)
- (c) Advise Carl what damages he can claim as a result of the defect in the TM1 robot.
(9 marks)
(Total: 15 marks)

(Total Marks for Scenario 1: 40 marks)

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Scenario 2

Jeremy runs a delivery service in Southampton. Six months ago, he decided to expand his business to the Isle of Wight. So that he could deliver goods across the Solent waterway, he entered into a one-year hire of a boat, the Katchase, from Mayboat. The contract between them contained a term stating:

'5. Mayboat shall keep the Katchase in a seaworthy state for the duration of the hire'.

Diane, a farmer, is a friend of Jeremy. In the first week of the hire, Diane asked Jeremy if he would transport 20 sheep to her farm on the Isle of Wight. Jeremy offered Diane a 50% discount because she was a friend, which Diane agreed to. Jeremy duly transported the sheep to the farm.

The Katchase worked well for the first four months. However, it then suffered an oil leak, because of Mayboat's failure to replace an oil filter. As a result, the Katchase could not be used for ten days. Jeremy had to hire another boat at a cost of £400.

A month after the repair was completed, the Katchase caught fire, as Mayboat should have replaced the engine oil following the oil leak. Mayboat estimated that it would take five months to get the Katchase back in service.

While the Katchase was out of service, Jeremy entered a contract to hire another boat, the Lebrocle, from Shiphire for five months. The terms of the hire were that Jeremy would pay £2,000 up front, and £3,000 at the end of the hire period. There was also a clause providing that the hire would terminate in the event of extended bad weather. Shiphire incurred expenses of £500 in preparing the Lebrocle for Jeremy, and Jeremy paid the £2,000 up-front payment.

Unfortunately, the day before Jeremy was due to take delivery of the Lebrocle, it was requisitioned by the government to urgently replace a coastguard boat.

Diane has now refused to pay Jeremy, saying that she has not been making enough profit to pay for favours.

Scenario 2 Questions

1. (a) Explain what is meant by an innominate term and explain the remedies for breach. **(4 marks)**
- (b) Explain how Term 5 of the contract should be classified. **(4 marks)**
- (c) Explain the remedies available to Jeremy:
- (i) as a result of the oil leak; **(3 marks)**
- (ii) as a result of the Katchase catching fire. **(3 marks)**
- (Total: 14 marks)**
2. (a) Explain what is meant by frustration of a contract. **(4 marks)**
- (b) Explain whether the contract for the hire of the Lebrocle was frustrated as a result of its requisitioning by the government. **(5 marks)**
- (Total: 9 marks)**
3. Assuming that the contract for the hire of the Lebrocle was frustrated:
- (a) explain the effect of frustration on the obligations of each of the parties due for performance after the requisition; **(3 marks)**
- (b) explain whether Jeremy may be entitled to the return of all or any of the £2,000 payment made to Shiphire. **(8 marks)**
- (Total: 11 marks)**
4. Explain whether Diane's agreement to pay Jeremy for transporting the sheep is intended to be legally binding. **(6 marks)**

(Total Marks for Scenario 2: 40 marks)

Turn over

Scenario 3

Six months ago, in July 2019, Tim arranged a two-day rock festival on Redcar beach for January 2020.

Tim entered a contract with the band 'Malinois' to headline the first day. At the time, Malinois were an up-and-coming band. To gain publicity, they agreed to perform for £100, payable on completion of their set.

Tim asked the famous singer Picky Vee to headline the second day. Tim told her that Beyoncé and Metallica had both asked to headline it, but that he wanted to offer her the chance first. Picky was very flattered, and agreed to perform for £200,000, payable on completion of her set.

Tim applied to the local council for permission to run the festival. This was granted on the basis that four extra rescue boats from Redcar Coastguard were available during the festival. Tim contacted Redcar Coastguard, who agreed to provide the boats for £40,000.

Finally, Tim engaged Festifence to build a perimeter sandwall for £60,000.

Six months later

A week before the festival, Festifence told Tim that they would accept £50,000 for their work, if he gave them ten free tickets to the festival. Tim agreed. However, Festifence is now claiming the full £60,000 for building the sandwall.

By the time of the festival, the band Malinois had become famous. They contacted Tim and said that they no longer wanted to perform, as £100 was far too little for a band of their fame.

Tim has refused to pay the bill from Redcar Coastguard for the boats that it provided.

On the last day of the festival, Picky discovered that Tim had lied to her about Beyoncé and Metallica, and she is not sure what to do.

Scenario 3 Questions

1. (a) Explain whether the consideration provided by Tim to Malinois is executed or executory.
(2 marks)
- (b) Explain what is meant by 'adequacy of consideration'.
(3 marks)
- (c) Explain whether Malinois are bound by their promise to headline the first day.
(3 marks)
(Total: 8 marks)
2. (a) Explain whether performance of a public duty is good consideration for a promise of payment.
(3 marks)
- (b) Explain whether Redcar Coastguard can claim the £40,000 from Tim for providing the rescue boats.
(4 marks)
(Total: 7 marks)
3. (a) Explain the Rule in Pinnel's Case and identify **three** exceptions to the rule.
(5 marks)
- (b) Explain whether Festifence can claim the full payment of £60,000.
(3 marks)
(Total: 8 marks)
4. (a) Explain whether Tim's statement about Beyoncé and Metallica is a misrepresentation.
(5 marks)
- (b) Identify the **three** types of misrepresentation.
(3 marks)
- (c) Assuming Tim's statement to be a misrepresentation, explain:
- (i) what type of misrepresentation it is;
(4 marks)
- (ii) what remedies are available to Picky.
(5 marks)
(Total: 17 marks)
- (Total Marks for Scenario 3: 40 marks)**

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