

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.

SECTION A

(Answer ALL questions in Section A)

1. Define what is meant by a bilateral contract. *(2 marks)*
2. Explain the requirement for certainty of terms in a contract. *(3 marks)*
3. Explain what is meant by 'past consideration'. *(3 marks)*
4. Explain the presumption regarding intention to create legal relations in commercial agreements, and give **one** situation in which the presumption will not apply. *(4 marks)*
5. Identify **three** ways in which written terms, such as exclusion clauses, may be incorporated into a contract. *(3 marks)*
6. Identify the **three** types of contract governed by the Consumer Rights Act 2015. *(3 marks)*
7. Explain what is meant by a warranty in a contract. *(3 marks)*
8. Explain when a misrepresentation falls within s.2(1) of the Misrepresentation Act 1967. *(3 marks)*
9. Identify **three** exceptions to the rule in Cutter v Powell (1795) (the 'entire performance rule'). *(3 marks)*
10. Explain what is meant by 'mitigation of loss'. *(3 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

In February 2021, Weyford Village Council ('the Council') decided to run a competition to promote the planting of trees. They sent an acorn to each resident in Weyford, with a letter stating:

'We will pay £1,000 to the first resident who grows an oak tree exceeding 10 feet from their acorn. Get growing!'

Elaine planted her acorn straight away.

On 1 March 2021, the Council decided to award a new contract to maintain the village green. It sent letters to two local gardeners, Laiba and Martin, requesting quotations.

On 3 March, Laiba replied. She offered to mow the village green every week from March to September for three years, for £1,000 per year.

On 5 March, the Council replied, saying that before it decided, it wanted to know if Laiba would consider including trimming the surrounding hedges within the annual fee.

On 7 March, Laiba sent a letter to the Council stating that their questioning had put her off working for them.

On 9 March, Laiba was therefore surprised to receive a letter from the Council stating, 'We accept your offer of 3 March'. It turned out that her letter of 7 March had got lost in the post. She wrote again, to say that she was not interested.

As a result, the Council entered a contract with Martin, which cost £2,000 per year. This contract included the following clause:

'3. Martin agrees to maintain the village green and hedges in a satisfactory state for three years. This obligation is for the benefit of every resident of Weyford.'

In May, Martin failed to cut three of the twenty hedges, and missed one of the weekly mows of the village green. Elaine feels that the Council is letting Martin get away with his poor gardening, and wants to know if she can do anything about it.

By December, Elaine's oak tree had grown far taller than any of the other residents' trees. She was therefore very disappointed when she received a letter from the Council, stating:

'Owing to the cost of maintaining the village green, we are terminating the oak tree competition'.

Turn over

Scenario 1 Questions

1. (a) Distinguish a request for information from a counter-offer. **(4 marks)**
- (b) Explain the requirements for revocation of an offer. **(3 marks)**
- (c) Explain whether there is a contract between the Council and Laiba. **(7 marks)**
- (Total: 14 marks)**
2. (a) Explain what a unilateral contract is and how it may be formed. **(4 marks)**
- (b) Explain whether the Council can terminate the oak tree competition. **(5 marks)**
- (Total: 9 marks)**
3. (a) Distinguish a condition from an innominate term. **(5 marks)**
- (b) Explain how clause 3 of Martin's contract should be classified. **(4 marks)**
- (c) Explain whether the Council can terminate the contract on account of Martin's failure to cut the hedges and to mow the green every week in May. **(3 marks)**
- (Total: 12 marks)**
4. Explain whether Elaine is able to enforce clause 3 of the contract between Martin and the Council. **(5 marks)**

(Total Marks for Scenario 1: 40 marks)

Scenario 2

Six months ago, Janet arranged a week-long art exhibition to take place in January 2022 in Weyford. She engaged a number of up-and-coming artists to exhibit their work, including Arleta, who agreed to exhibit ten paintings for a total fee of £200.

Janet entered a contract with Spaceco, to hire ten rooms for the exhibition. She told Spaceco the purpose of the hire, and explained that she needed one large room where performance art could take place, as she planned to film performances and sell the TV rights to them.

Janet also entered into a contract with Caterco, to provide catering for the exhibition.

By the month before the exhibition, Arleta had become very famous. Janet realised that she would need extra security for the exhibition, and contacted Weyford Police. They said they would patrol as normal, but Janet said that she wanted ten armed police officers at the exhibition, to create some publicity. Weyford Police agreed to provide them for £8,000.

A week before the exhibition, Arleta told Janet that she was now too famous to do exhibitions for only £200. Arleta said that unless Janet agreed to pay her an extra £20,000, Arleta would not exhibit her art and would destroy Janet's reputation. Janet felt she had no choice but to agree to pay Arleta, so that the exhibition could go ahead.

Unfortunately, Spaceco was only able to provide seven rooms for the exhibition, none of which were large enough for the performance art. Janet had expected to take £100,000 in fees from visitors, but as a result of the lack of rooms, she only took £70,000. She also missed out on selling £50,000 worth of TV rights for the performance art.

Because of the lack of rooms, Janet decided not to provide catering, and she cancelled Caterco at the last minute. Caterco had to donate a crate of salmon sandwiches to charity, as they could not be reused anywhere else. It had spent £5,000 preparing these. Caterco has no idea whether it would have made any profit from the contract, if Janet had not cancelled it.

Scenario 2 Questions

1. (a) Explain what is meant by 'remoteness of damage' and the tests used to determine whether damage is too remote.

(4 marks)

- (b) Explain what damages Janet can claim from Spaceco as a result of its failure to provide ten rooms.

(7 marks)

(Total: 11 marks)

2. (a) Explain whether consideration needs to be adequate.

(2 marks)

- (b) Explain whether Arleta was bound by her original promise to exhibit at the exhibition for a fee of £200.

(3 marks)

- (c) Explain whether Arleta can enforce Janet's promise to pay her the extra £20,000 for exhibiting her art.

(7 marks)

(Total: 12 marks)

3. (a) Explain whether performance of an existing public duty is good consideration for a promise of payment.

(4 marks)

- (b) Explain whether Weyford Police can enforce Janet's promise to pay for the ten armed police officers.

(4 marks)

(Total: 8 marks)

4. (a) Explain how damages are determined on the basis of expectation loss and reliance loss.

(4 marks)

- (b) Explain whether Caterco will be able to claim damages in respect of the salmon sandwiches.

(5 marks)

(Total: 9 marks)

(Total Marks for Scenario 2: 40 marks)

Scenario 3

Aneela is a farmer. Six months ago, Aneela decided to retire, and advertised her farm for sale for £1 million. She had lots of enquiries. When Omer rang about visiting the farm, she was able to tell him that there were ten other potential buyers, so she would not consider lower offers and Omer would have to decide quickly about buying the farm. She also told Omer about her plans for retirement.

Omer visited the next day and expressed his concern about the ten other potential buyers. In fact, the evening before, all of them had rung Aneela to say that they were no longer interested. Aneela, fearful that Omer would also pull out, said nothing. Worried that he might miss out to one of the other interested parties, but pleased that Aneela was retiring, Omer offered Aneela the asking price of £1 million, which she accepted.

Four months later, Aneela was bored of retirement, and bought another farm with 100 cows in the next village.

She entered into a one-year contract with Paris to provide one tonne of hay each month for a cost of £350 per month.

Three weeks ago, Aneela entered a contract with Jayden for Taurus, his prize bull, to service all of her cows the following Friday. They agreed a fee of £20,000. Aneela paid £2,000 immediately, with the balance of £18,000 due on completion.

On that Friday, Jayden spent £1,500 giving Taurus extra food and transporting him to Aneela's farm. Unfortunately, when Taurus saw the field so full of cows, he dropped down dead.

As Aneela no longer needed so much hay, she rang Paris to terminate the hay supply contract ten months early. Paris was unhappy, but eventually she agreed to accept a sum of £900 to bring the contract to an end, which Aneela paid.

Omer has since let the farm to Lauren on a 99-year lease, but was upset to discover from Aneela's ex-husband that all the other potential buyers had pulled out before Omer had made his offer.

Scenario 3 Questions

1. (a) Define misrepresentation. **(3 marks)**

(b) Identify **three** circumstances in which silence may constitute a misrepresentation. **(3 marks)**

(c) Explain whether Aneela's statement about the ten other potential buyers is a misrepresentation. **(5 marks)**
(Total: 11 marks)

2. Assuming that Aneela's statement about the ten other potential buyers is a misrepresentation:

(a) explain what type of misrepresentation it is; **(4 marks)**

(b) explain whether Omer can rescind his contract with Aneela. **(4 marks)**
(Total: 8 marks)

3. (a) Define what is meant by 'frustration of a contract'. **(4 marks)**

(b) Explain whether the contract between Aneela and Jayden has been frustrated. **(3 marks)**
(Total: 7 marks)

4. Assuming that the contract between Aneela and Jayden has been frustrated:

(a) explain whether Aneela has to pay the £18,000 due on completion; **(3 marks)**

(b) explain whether Aneela can recover any or all of the £2,000 she has paid. **(7 marks)**
(Total: 10 marks)

5. Explain how the contract between Aneela and Paris has been discharged. **(4 marks)**

(Total Marks for Scenario 3: 40 marks)

End of Examination Paper