



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. Define a contract. *(3 marks)*
2. Explain the Postal Rule. *(5 marks)*
3. Define consideration. *(2 marks)*
4. Explain when a commercial agreement may not be intended to be legally binding. *(4 marks)*
5. Identify **three** factors the court will consider when distinguishing a representation from a term of a contract. *(3 marks)*
6. Define a warranty, and explain what remedies are available for the breach of it. *(3 marks)*
7. Explain what is meant by **innocent** misrepresentation. *(4 marks)*
8. Define frustration. *(3 marks)*
9. Identify **two** ways in which a contract may be frustrated. *(2 marks)*
10. State what is meant by an injunction. *(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

Daleside Distribution Ltd ('Daleside') runs a fleet of 40 vans. It uses them to distribute 'white goods', such as fridges and dishwashers, for retailers such as John Lewis, Currys and AO.com.

In September 2016, Daleside entered into a one-year contract with Mayton Garages Ltd ('Mayton') for the maintenance of Daleside's fleet of vans. Two of the terms of that contract were as follows:

- 3.1 Mayton agrees to maintain Daleside's fleet of 40 vans in a roadworthy condition for the duration of the contract.
- 4.5 Clause 3.1 of this contract shall be enforceable by the retailers with whom Daleside has contracts for the distribution of goods to customers, including John Lewis and AO.com.

For the first three months of the contract, all of the vans worked well. However, in December 2016, three of the vans suffered breakdowns as a result of maintenance failures. In order to complete Daleside's deliveries while the vans were being repaired, Mayton paid for Daleside to hire other vans at a cost of £2,000.

For a period after that, the vans all worked well again. However, at the beginning of May 2017, 20 of the vans suffered engine failures as a result of Mayton's mechanic using the wrong type of oil in the engines. Mayton has since managed to repair 10 of them, but now another 12 have broken down, so that only 18 vans are currently roadworthy.

As a result of these failures, Daleside has had to hire other vans to complete its deliveries, at a total cost of £10,000. The failures have led to delays and disruption, causing Currys to terminate its contract with Daleside. This has cost Daleside £20,000 in lost profits.

Daleside has also missed out on a lucrative prospective contract with Amazon, which, on hearing of the problems, decided to use a different distributor for its goods. Daleside estimates that it would have made an £80,000 profit from the contract with Amazon.

Scenario 1 Questions

1. (a) Explain what an innominate term is, and how it differs from a condition.

(6 marks)

- (b) Explain whether clause 3.1 of the contract is a condition or an innominate term.

(4 marks)

- (c) Explain whether any remedies are available to Daleside as a result of the breakdown of the three vans suffered in December 2016.

(5 marks)

(Total: 15 marks)

2. Explain what is meant by 'remoteness of loss' and the principles which govern whether a loss is too remote.

(5 marks)

3. Advise Daleside what damages it can claim as a result of the failures from May 2017 onwards.

(7 marks)

4. Advise Daleside whether it is now entitled to terminate its contract with Mayton.

(3 marks)

5. (a) Explain what is meant by 'privity of contract'.

(4 marks)

- (b) Explain whether clause 3.1 of the contract between Mayton and Daleside is enforceable by AO.com if it suffers any losses as a result of Mayton breaching the contract.

(6 marks)

(Total: 10 marks)

(Total Marks for Scenario 1: 40 marks)

Turn over

Scenario 2

Mary runs a store selling souvenirs. She recently decided to have a store refit, and entered a contract with Lovena for the supply of some wood for new shelving. Lovena handed Mary a written 'Contract Note' which described the wood being purchased and specified the price of £3,000.

On the front of the Contract Note was a reference, 'See back'. On the back of the note were 30 clauses, which included the following:

27. The customer must pay any extra sum if the price of wood goes up before the due date for delivery.

Mary said that she wanted Lovena to go ahead with the delivery. Neither Lovena nor Mary signed the Contract Note.

Mary entered into a second contract, with Jassan, to carry out the joinery work to fit the shelving, for a price of £2,000, and a third contract, with George, for the painting of the shelving once it was fitted, for a price of £1,000.

Jassan fitted 18 out of the 20 shelves perfectly. Of the remaining two, Jassan cut one of them 30 centimetres too short, and did not properly sand the other. Jassan explained that he was too busy to finish the work. Mary has declined to pay Jassan any of the contract price, and it has cost Mary £150 to get the work finished.

George started painting the shelving last week. On his third day, when George was about halfway through the painting, Mary realised that it was such an easy job that she could do it herself. When George went off for his lunch, she locked the door and refused to let him back in to finish the painting.

Lovena is now seeking to recover £3,200 from Mary, citing increases in the price of wood as the reason for the increase, but Mary insists that she is only liable to pay £3,000.

Scenario 2 Questions

1. (a) Identify **three** ways in which express terms may be incorporated into contracts, citing a case for each.
(6 marks)
- (b) Explain whether clause 27 of the Contract Note was incorporated into the contract between Mary and Lovena.
(9 marks)
(Total: 15 marks)
2. (a) Identify and explain **three** ways in which terms may be implied into contracts.
(6 marks)
- (b) Identify **three** terms relating to the wood which will be implied into the contract between Mary and Lovena.
(3 marks)
(Total: 9 marks)
3. (a) Define the 'entire performance' rule relating to performance of a contract.
(2 marks)
- (b) Explain whether Jassan will be entitled to recover any or all of the price of £2,000 from Mary by virtue of any exception to the 'entire performance' rule.
(9 marks)
- (c) Explain whether George has any claim against Mary in relation to the painting he has done under his contract with her.
(5 marks)
(Total: 16 marks)

(Total Marks for Scenario 2: 40 marks)

Turn over

Scenario 3

Tristan and Kate, who had lived together for five years, recently decided to separate. Last week, they left their rented accommodation and went their separate ways. The only issues which they needed to resolve concerned Kate's dog, Fido. Kate only works mornings, so can look after Fido, but is rather short of money.

Tristan and Kate texted each other as follows:

Tristan's first text: 'I don't want to lose contact with Fido. Would you consider letting me have Fido on Saturdays if I paid £20-£30 a week towards his upkeep?'

Kate's first text: 'Do you know how much it costs to keep a prize Labradoodle?! You know I'm nearly broke. I am prepared to let you have Fido on Saturdays for £200 a week. Not negotiable. Let me know.'

Tristan's second text: 'Would that include his food and biscuits for the day?'

Kate's second text: 'Forget it, Tristan, I can't be bothered with your haggling.'

Unfortunately, Kate forgot to press 'Send' on this second text, so Tristan never saw it.

Getting no reply, he sent Kate a third text, saying: 'OK, £200 a week it is', which Kate read but initially ignored.

Kate has now changed her mind, and wishes to have the £200 per week, and is prepared to let Tristan have Fido on Saturdays. Tristan, however, has lost interest in Fido and does not want to pay.

Scenario 3 Questions

1. (a) Define an offer, and explain how it differs from an invitation to treat.
(5 marks)
- (b) Explain whether Tristan's first text is an offer.
(3 marks)
- (c) Identify **two** features of Kate's first text which show it to be an offer.
(2 marks)
(Total: 10 marks)
2. (a) Identify **three** ways in which an offer may be terminated.
(3 marks)
- (b) Explain the legal effect, if any, of Tristan's second text on Kate's first text.
(5 marks)
- (c) Explain the legal effect, if any, of Kate's second text on her first text.
(5 marks)
(Total: 13 marks)
3. Advise Tristan whether his third text gives rise to an agreement with Kate.
(4 marks)
4. Assuming Tristan and Kate to have reached an agreement about Fido:
- (a) explain whether it is an agreement which is intended to create legal relations;
(6 marks)
- (b) explain whether Kate has given valid consideration for Tristan's promise of payment.
(7 marks)
(Total: 13 marks)

(Total Marks for Scenario 3: 40 marks)

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