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THE INSTITUTE OF  
**CHARTERED** ACCOUNTANTS  
OF SRI LANKA

# **SUGGESTED SOLUTIONS**

**KE3(B)-Fundamentals of Law**

**March 2017**

## SECTION 01

### Answer 01

1.1

Learning Outcome/s: 1.3.1  
Identify the courts in Sri Lanka and their functions

**Correct Answer: C**

1.2

Learning Outcome/s: 2.1.1  
Explain the requisites of a valid contract i.e. offer and acceptance, intention to create legal relations, considering (including the concept of "Laesio Enormis"), capacity and form'. Definition of contract agreement, offer and acceptance capacity to contract, form of contracts, "reality of consent"

**Correct Answer : B**

1.3

Learning Outcome/s: 3.5.1  
State the principles of leasing and hire-purchase agreements.

**Correct Answer: C**

1.4

Learning Outcome/s: 4.1.2  
Explain the functions of cheques, bills of exchange and promissory notes, from a business context.

**Correct Answer: D**

1.5

Learning Outcome/s: 4.3.1  
Define and explain the commercial significance of "holder in due course" and "presentment" in relation to a bill of exchange.

**Correct Answer: B**

1.6

Learning Outcome/s: 5.3.2  
State the duties of a principal towards agent.

**Correct Answer: D**

1.7

Learning Outcome/s: 5.7  
Creation of Partnership, Relations of Partners, Change of Partners and dissolution of Partnership

**Correct Answer: D**

1.8

Learning Outcome/s:

7.3.2 State hours of employment, weekly, annual holiday and leave.

7.3.3 Identify facilities to be provided by employers under the Shop & Office Employees Act

**Correct Answer: B**

1.9

Learning Outcome/s:

7.1.1. Employee's Provident Fund (EPF)

Employee's Trust Fund (ETF)

Private Provident Funds (PPF)

7.1.3 List instances in which employees can withdraw his/her contributions from EPF & ETF

**Correct Answer: B**

1.10

Learning Outcome/s: 8.2.1

State briefly on each of these Acts: Prevention of Money Laundering Act. No. 05 of 2006, Electronic Transaction Act No. 19 of 2006, Computer Crimes Act. Consumer Protection Act, Intellectual Property, Act No. 36 of 2003.

**Correct Answer: C**

**(Total: 20 marks)**

## SECTION 2

### Answer 02

#### 2.1

Learning Outcome/s: 1.4.1

Explain the regulatory role of each of these institutions.

Institute of Chartered Accountants, Sri Lanka Accounting and Auditing Standards Monitoring Board, Securities and Exchange Commission, Colombo Stock Exchange, Board of Investment, Registrar of Companies, Dept. of Customs, Central Bank (Exchange Control aspect).

- To assist investors at all stages of the process, from the application stage to commercial operation.
- The BOI is entrusted with the establishment and management of export processing zones (which are available to investors to set up industrial and commercial enterprises.)
- To diversify the sources of foreign exchange earnings.
- To increase the export earnings.
- To attract foreign direct investments and domestic investments.

#### 2.2

Learning Outcome/s: 2.5.1

Explain the Common Law and Equitable remedies for breach of contract.

- Refuse further performance.
- Claim damages.
- Sue on quantum merit.
- Sue for specific performance.
- Sue for an injunction.
- Seek relief under the principle of unjust enrichment.

#### 2.3

Learning Outcome/s: 3.1.1

Discuss the difference between a contract for sale of goods and a contract for work and materials, and the classification of said goods.

A contract of sale concerns the delivery of chattels or goods..

A **contract for works and material** is one where the contract is for the exercise of skill, and the delivery of the chattel/goods is secondary.

2.4

Learning Outcome/s: 7.4.1 Explain the procedure for termination of employees under the Termination of Employment of Workmen (Special Provisions) Act.
The prior written consent of the workman needs to be obtained. Or  The prior written approval of the Commissioner of Labour needs to be obtained.

2.5

Learning Outcome/s: 8.1.1 Define fraud, theft, money laundering, bribery, negligence and explain the main defences.
The main defenses for the offence of "theft" are as follows : <ul style="list-style-type: none"><li>- Claim of right or ownership of property – this means that the offender believed in good faith that the property actually belonged to him.</li><li>- Intoxication - by either alcohol, chemicals or drugs.</li><li>- Entrapment - this means that the offender was induced or lured by another person, into stealing.</li><li>- Intention to return property – the offender must establish that he did not steal, but just "borrowed" with the intention of returning it back to the rightful owner.</li></ul>

**(Total: 10 marks)**

## SECTION 3

### Answer 03

Learning Outcome/s: 2.2.1

Explain what is meant by the terms of contract (conditions, warranties, exemption clauses) and the effect of exemption clauses and the Unfair Contract Terms Act No. 26 of 1997.

#### Part (a):

A **condition** is a term which goes to the root or foundation of a contract.

A breach of a condition, gives the innocent party the right to rescind the contract as well as to claim damages.

A **warranty** is an “obligation which, though it must be performed, is not so vital that a failure to perform it does not affect the substance of the contract.”

A breach of a warranty does not allow the innocent party to rescind the contract, but allows him to claim damages.

#### Part (b):

The use of the words “of the essence” clearly demonstrated that the parties intended this clause to be treated as a condition of this contract.

Hence the delay in making the installment payment amounted to a breach of a condition by Movi

Therefore Suvi as the owner of the computers has the right to treat the contract as repudiated or rescinded and retake possession of the computers given for hire under the contract, as well as claim damages for the repudiation of the contract.

Similar points were discussed at *Lombard North Central PLC v Buttersworth [1987] Q.B. 527*

**[Total: 10 marks]**

## Answer 04

### Part (a)

Learning Outcome/s: 3.3.1
Discuss the time at which there is a passing of risk and a transfer of title (unascertained goods, reservation of title, instalment deliveries, sales by auction, sale by person not the owner).

In the scenario, the 15 bags were not initially appropriated to the contract, but were defined by description only.

The law relating to a contract for the sale of unascertained goods by description, where the goods of that description which are in a deliverable state, is that when these goods are unconditionally appropriated to the contract by either party, the property in these goods passes onto the buyer, at the time of such appropriation.

In the scenario, Gilbert had already appropriated the 15 bags to the contract and Pandu's assent to this appropriation was inferred from his conduct in not objecting.

Therefore the property or ownership of these 15 bags, passed to Pandu, at the time this appropriation was made.

By considering the above facts, it could be said that Pandu will not be successful in claiming for the price paid on the 15 bags from Gilbert.

The facts of the scenario are similar to the decided case of *Pignataro vs Gilroy* [1919] K.B.459.

### Part (b)

Learning Outcome/s: 5.2.1
Explain the circumstances under which an agent may acquire actual authority (including express authority and implied authority) and ostensible authority

Aloma is the company secretary, an officer of the company, and hence is an agent of the company.

In this scenario, though she had not been given any real authority to hire the furniture, the fact that she is the secretary, gives the furniture hire company the appearance or impression that she has authority to do so, and this type of authority is known as "ostensible" or "apparent authority".

Therefore Aloma as an officer of the company, had apparent or ostensible authority to enter into the furniture hire contract on behalf of the company.

As a result, the company is liable to pay for the furniture hire.

Similar incident took place in the famous case, *Panorama Developments vs. Fidelis Furnishing Fabrics* (1971) 2 Q.B. 711 and the company was liable to pay the car hire for the cars hired by secretary for personal use.

**[Total:10 marks]**

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