

CA



THE INSTITUTE OF
CHARTERED ACCOUNTANTS
OF SRI LANKA

SUGGESTED SOLUTIONS

KE3(B)-Fundamentals of Law

March 2019

SECTION 1

Answer 01

1.1

Learning outcome/s: 1.2.1
Identify the key legal systems applicable in Sri Lanka.
Study text reference: Page 7
Correct answer: D

1.2

Learning outcome/s: 2.6.1
Identify the periods of prescription for different types of contracts.
Study text reference: Page 69
Correct answer: C

1.3

Learning outcome/s: 2.3.1
Explain the effect of illegality and its consequences.
Study text reference: Pages 61 and 62
Correct answer: D

1.4

Learning outcome/s: 3.2.1 and 3.3.1
Explain the implied conditions and warranties that are applicable in a contract for sale of goods. Discuss the time at which there is a passing of risk and a transfer of title (unascertained goods, reservation of title, instalment deliveries, sale by auction, sale by person not the owner).
Study text reference: Pages 86, 89, 91 and 92
Correct answer: C

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.
Study text reference: Page 107
Correct answer: A

1.6

Learning outcome/s: 5.4.1
State the circumstances under which a contract of agency may be terminated by the act of parties and by operation of law.
Study text reference: Pages 131 and 132
Correct answer: B

1.7

Learning outcome/s: 5.7.6
State the relationship between partners and third parties.
Study text reference: Pages 148 and 149
Correct answer: B

1.8

Learning outcome/s: 7.1.1
State who should contribute to EPF and ETF, along with relevant exemptions.
Study text reference: Page 206
Correct answer: A

1.9

Learning outcome/s: 7.1.1
State who should contribute to EPF and ETF, along with relevant exemptions.
Study text reference: Page 210
Correct answer: D

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 Transactions Act No. 19 of 2006, Computer Crimes Act, Consumer Protection Act, Intellectual Property Act No. 36 of 2003.
Study text reference: Page 223
Correct answer: D

(2 x 10 = Total: 20 marks)

Answer 02

2.1

Learning outcome/s: 1.1.1
Identify the main branches of the Sri Lankan Legal system and their roles.
Study text reference: Page 5
Legislation: <ul style="list-style-type: none">• refers to the Acts and Ordinances passed by (or the laws enacted by) Parliament.• is also called "enacted law" or "statute law".• includes, "delegated or subordinate legislation" (which are the by-laws, regulations, orders etc. made by local bodies to whom Parliament has given such powers).

2.2

Learning outcome/s: 2.5.1
Explain the Common Law and Equitable remedies for breach of contract.
Study text reference: Pages 66 – 68
Remedies available for the innocent party in a breach of a contract are: <ol style="list-style-type: none">1. To refuse further performance.2. To claim for damages.3. To sue on quantum meruit.4. To sue for specific performance.5. To sue for an injunction.6. To seek relief under the principle of unjust enrichment.7. To repudiate the contract.8. To file legal action against the party in breach.

2.3

Learning outcome/s: 3.4.1
Explain the remedies that are available to a buyer and seller, including rights of an "unpaid seller".
Study text reference: Page 85
The following terms in relation to the <u>title of goods</u> are implied in this contract for the sale of tea, by the Sale of Goods Ordinance No. 11 of 1896. <ol style="list-style-type: none">1. There is an implied condition on the seller that he has a right to sell the goods.2. There is an implied warranty that the buyer shall have and enjoy quiet possession of the goods.3. There is an implied warranty that the goods shall be free from any charge or encumbrance, which was not known to the buyer before the contract was made.

2.4

Learning outcome/s: 4.2.1

Explain, in respect of the following, the applicable principles of cheque law and their commercial significance (endorsements, crossings, dishonour and banker's liability).

Study text reference: Page 108

For an **endorsement to be valid** under the Bills of Exchange Ordinance No. 25 of 1927, it must **fulfill the following requisites**.

- The endorsement must **be written on the bill** itself, and **signed by the endorser**.
- It must be an **endorsement of the entire bill** (i.e. must be an endorsement of the entire bill amount).
- If the negotiable instrument is payable to **two or more payees or endorsees** who are not partners, **all must endorse; unless** the one endorsing has the **authority** to endorse for the others.

2.5

Learning outcome/s: 8.2.1 (Electronic Transaction Act No. 19 of 2006)

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

Study text reference: Page 226

An **electronic document** should have the **following characteristics** for it to be **recognised as a legal document** under the Electronic Transaction Act No. 19 of 2006.

1. It should be **accessible** for **subsequent reference**.
2. There should be **reasonable assurance** on the **integrity of the contents** of the document.
3. The **origin and destination of the data** should be **identifiable**.
4. The document should be **retained** in either the format in which it was generated or in a format that can represent the generated information accurately.
5. There should be an **electronic signature** on the document.

Total: 10 marks)

SECTION 2

Answer 03

(a)

Learning outcome/s: 2.1.1

Explain the requisites of a valid contract i.e. offer and acceptance, intention to create legal relations, consideration (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”.

Study text reference: Pages 38 and 39

In the given scenario there is a valid offer made by Yamu(Y). In order for a valid contract to be formed between Y and Kamu(K), there must be a valid acceptance by K of this offer. However, this **acceptance must be made by K before the offer is revoked** by Y.

K knew the **offer was revoked** through the Saturday **newspaper**, which is a **reliable source**.

Further, even though Y said she will keep the offer open till 10am on Sunday, she has a **right to revoke the offer any time before it is accepted**.

Therefore the acceptance by K on Sunday is **not a valid acceptance**, as by that time the **offer had been revoked**.

As a result a **valid contract was not formed** between Y and K.

Similar facts were discussed in the case of **Dickinson v Dodds** (1876) 2 Ch.D. 463, where it was **held** that the **acceptance is not valid** when the **offeree knows** through a **reliable source** that the **offer** had been **revoked**.

(b)

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.

Study text reference: Page 48

(i) A **condition** is a term of the contract that goes to the root of the contract, whilst a **warranty** is a not so vital term of the contract that does not affect the substance of the contract.

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

Therefore the **delay** in paying the fifth installment amounts to a **breach of a condition**.

Similar facts were discussed in the case of **Lombard North Central PLC v Buttersworth** (1987) Q.B. 527, where it was **held** that the term in the contract that said that the **prompt payment of installments** is “**of the essence**” implied that the parties intended this term to be treated as a **condition** in the contract. Hence a **delay** in making an installment payment amounts to a **breach of a condition**.

- (ii) The main rule regarding an exemption clause is that an **exemption clause cannot exclude the fundamental obligation** or basic responsibility of a party under the contract.

In the given scenario, the **payment of the installments on time** amounts to a **condition**, and thereby becomes a **basic responsibility** of Zuhair(Z) under the contract.

Therefore Z **cannot exclude** this liability by introducing an exemption clause.

(Total: 10 marks)

Answer 04

- (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, installment deliveries, sales by auction, sale by person not the owner).

Study text reference: Pages 88 and 89

A similar incident to that of the given scenario was discussed in the following case.

Case name

Kirham v Attenborough (1897) 1 Q.B. 201

Case facts

K delivered jewellery to W on a “sale or return” basis. Thereafter W mortgaged the jewellery to A.

Held

The mortgage by W amounted to him adopting the transaction. Therefore the property in the jewellery passed to W. As a result K could not recover the jewellery from A.

When goods are delivered to a buyer on the basis of “sale or return within 30 days”, the **title** in these goods **passes** to the buyer, **either**:

- at the **end of 30 days** if the buyer has **retained the goods**; or
- if the **buyer signifies his acceptance** of the goods

In the given scenario, the fact that B **pawned** the chains to XYZ Bank suggests/**implies** that he has **accepted** these chains as his, even though he may have not directly communicated this acceptance to V.

Therefore the **title** in these chains **passed to B** at the **time he pawned** them to the bank.

(b)

Learning outcome/s: 5.3.1 and 5.3.2

5.3.1 State the duties of an agent towards the principal.

5.3.2 State the duties of a principal towards an agent.

Study text reference: Pages 128 – 130

(i) The main **duties** of R, as the **principal**, towards his agent P are:

- To **pay** the agent his **commission or remuneration**.
- To **indemnify** the agent for the lawful acts done by him and for liabilities incurred by him in the execution of his authority.

(or any other suitable point that signifies a duty of the principal)

(ii) The main **duties** of P, as the **agent**, towards his principal R are:

- To **exercise due diligence** in the performance of his duties and to **apply any special skill** which he professes to have.
- To **render an account** when required.
- **Not to become principal** as against his employer.
- To **follow** the principal's **instructions**.
- **Not to delegate** his authority.
- **Not to divulge confidential information** of the principal.
- To **act in the best interest** of, and for the benefit of, the principal.
- **Not to make secret profits**.

(or any other suitable point that signifies a duty of the agent)

(Total: 10 marks)



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