

UNIVERSITY OF LONDON

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DIPLOMA IN LAW
LLB EXAMINATION
for External Students

INTERMEDIATE EXAMINATION (Scheme A)
FIRST AND SECOND YEAR EXAMINATIONS (Scheme B)
GRADUATE ENTRY LEVEL I (Route A)
GRADUATE ENTRY FIRST YEAR (Route B)

BSc DEGREES
for External Students

MANAGEMENT WITH LAW, LAW WITH MANAGEMENT, ACCOUNTING
WITH LAW AND LAW WITH ACCOUNTING FOR STUDENTS IN THE
EXTERNAL PROGRAMME

Elements of the Law of Contract

Friday 22 May 2009: 10.00 - 1.15 pm

Candidates will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their answer books. They then have the remaining **THREE HOURS** in which to answer the questions.

Candidates should answer **FOUR** of the following **EIGHT** questions.

Candidates should answer all parts of a question unless otherwise stated.

1. On Monday, Albert inspected Betty's car at her house in Woking and offered to pay £10,000 for it. Betty wanted £12,000. Later in the day, Betty wrote to Albert and stated that she would take £11,000. The letter was received by Albert at his home on Tuesday morning. At 4.00 pm on Tuesday afternoon, Albert at his office in London wrote a letter to Betty accepting her offer. On his way to post the letter Albert met Cuthbert who told him, 'I gather that Betty has finally sold her car.' Betty had, indeed, sold the car. Albert posted his letter and, upon arriving home at Woking, discovered a message on his answer phone from Betty. The message had been left at 3.00 pm; Betty had stated, 'I withdraw my offer.' Albert bought a similar car for £12,500.

Advise Albert.

2. Alexandra purchases a hotel in Devon. It requires renovation and she employs Bertram to install a new kitchen for £50,000. She plans to reopen the hotel in time for the summer trade and so stipulates in the contract that the kitchen must be completed by the end of March. By the end of January, it becomes clear that the work will not be completed on time. Alexandra promises to pay Bertram a further £6,000 which will enable him to hire extra staff to ensure completion on the due date. Her husband, Charles, concerned at the pressure being placed on his wife, promises Bertram a further £1,000 'bonus' if he completes on time.

Meanwhile, Alexandra owes money to the decorators, Décor Ltd. She speaks to their managing director in January and promises to pay a further £700 of the £1,000 due immediately (the money is due at the end of March), provided that this extinguishes the debt. The managing director agrees and Alexandra pays the £700.

Bertram completes the work at the end of March, but Alexandra and Charles now refuse to pay him more than the £50,000 due under the contract. Alexandra also receives a demand for £300 from Décor Ltd at the end of March.

Advise the parties.

3. 'While the common law doctrine of privity prevented a third party to a contract from ever receiving an enforceable benefit, the Contracts (Rights of Third Parties) Act 1999 and the cases which interpret the Act ensure that a third party will always have an enforceable benefit.'

Discuss.

4. Dr Anson decides to sell his private medical practice. In May, Dr Chitty expresses an interest in purchasing the business and negotiations begin. Dr Anson, in the course of the negotiations, tells Dr Chitty that 'everything is splendid at the moment. I have more work than I could possibly want' and that his practice would be 'an excellent opportunity for a young doctor such as yourself'. Dr Anson offers to show Dr Chitty the accounts, which show a profit of £80,000 per annum, but Dr Chitty is so impressed that he decides not to bother. He is relieved to hear that Dr Anson is planning to retire, as he knows him to be popular with his patients. He asks, however, for more time to consider his position. Dr Anson (falsely) tells him that he has two more doctors coming to visit the practice the next day and he fully expects one of them to make him an offer. This prompts Dr Chitty to offer the full asking price immediately, which Dr Anson accepts.

Having operated the practice for six months, it becomes clear to Dr Chitty that there is no way the practice could possibly have shown a profit of £80,000 per annum. His own accountant examines the accounts and informs him that the sum was greatly exaggerated. He has also found out that, having taken a round-the-world cruise, Dr Anson plans to set up a private medical practice nearby and has already been contacting his former patients to inform them of this fact. Dr Chitty fully expects many of his patients to move to Dr Anson's practice and, if this occurs, his accountant informs him that the practice will no longer be financially viable.

Advise Dr Chitty.

5. Cyril Hedge, a financier and well known customer of Nichollod's Stores, needs to leave London for a period of time to tend to his business. He hires Peter Dastardly, on the recommendation of a local employment agency, as a caretaker at his Chelsea home whilst he is abroad.

Dastardly uses Hedge's email account to send a message to Nichollod's and, describing himself as Hedge, arranges to have a home entertainment system priced at £5,000, delivered to Hedge's Chelsea address. When the system is delivered, Dastardly takes it in and then sells it to Shady, a second-hand electronics dealer near Oxford Street. Shady is unaware of how Dastardly obtained the system and displays it in his window. A Nichollod's employee notices the system and Nichollod's seeks the return of the system from Shady.

Advise Shady.

To what extent, if any, would your answer differ if Dastardly had visited Nichollod's Stores to arrange the purchase of the home entertainment system?

6. Duff was a supplier of radio equipment who was registered as required by the (fictitious) Radio and Wireless Dealers Act 1969. Duff supplied a Zelco radio to Yvette, without providing the statutory invoice describing the radio as required by the Act, after Yvette had said that as far as she was concerned none was necessary. The agreed price was £500, but Yvette subsequently refused to pay for the radio.

Duff delivered to Xanthea an Accro radio for £250. Again, Duff failed to provide a statutory invoice. Two weeks later the radio suffered an electrical short, stopped working and cost £50 to repair.

Duff supplied a Betco radio to Winifred for £300. Winifred ran a brothel, although Duff did not know this. Winifred refused to pay for the radio, which she put in the room used to greet clients.

Advise Duff.

What difference, if any, would it make to your advice if Duff's licence had expired before the above transactions were entered into though Duff was unaware of this?

7. Norman operates his own window cleaning business. He purchases a new ladder from LADUP, a cut-market retail outlet. The ladder is considerably cheaper than the prices offered by other suppliers. Before purchasing the ladder, Norman tests it and the sales assistant hands him a piece of paper which he is told to read.

The paper states: 'Please read carefully and do not sign unless you are entirely happy with our terms.' LADUP offer the cheapest prices in the market, but, to do so, our customers agree that:

- (i) LADUP are not liable for any damage caused by any defects in our equipment. Customers are advised to examine the equipment carefully prior to purchase.
- (ii) LADUP agree to repair the equipment free of charge within six months of purchase on production of a valid receipt. NO responsibility is taken, however, for the quality of the repair service by our employees, servants or agents.

Norman does not read the piece of paper as he has not brought his reading glasses, but when asked to sign it by the assistant, does so. He takes the ladder home, but, when using it the next day to clean Mr Grimsdale's windows, one of the rungs of the ladder breaks under his weight. Norman falls off the ladder on to Mr Grimsdale's prized orchids, worth over £1,000, and smashes his watch, worth £50.

Fortunately Norman is not badly hurt and takes the ladder back to LADUP for repairs. Their employee, Pitkin, is busy and simply glues on a new rung. The ladder is returned to Norman. Because of the poor quality of the repair work, the rung gives way one day later and Norman falls, this time suffering serious personal injuries.

Advise Norman.

8. 'It is well settled that the governing purpose of damages is to put the party whose rights have been violated in the same position, so far as money can do so, as if his rights had been observed . . . This purpose, if relentlessly pursued, would provide him with a complete indemnity for all loss de facto resulting from a particular breach, however improbable, however unpredictable. This, in contract at least, is recognized as too harsh a rule.' (Asquith LJ in *Victoria Laundry (Windsor) Ltd v Newman Industries* (1949))

Critically evaluate this statement.

END OF PAPER