

NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY

BACHELOR OF COMMERCE (HONOURS) DEGREE

COMMERCIAL LAW I (CIN 1103)

SECOND SEMESTER SUPPLEMENTARY EXAMINATIONS 2005

DURATION: 3 HOURS

INSTRUCTIONS TO CANDIDATES

1. Answer all the questions.
 2. Substantiate your answers with reference to authority wherever possible.
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QUESTION ONE

- a) Name the requirements that the price in a contract of sale must comply with. (3 marks)
- b) Before a seller can be held liable for latent defects, certain requirements must be complied with. What are these requirements and what remedies are available to a purchaser who is sold an article with a latent defect. (8 marks)
- c) On 20 January 2005, S sells his car to P for \$40 million. They agree that delivery is to take place on 23 January 2005. There are no other contractual terms.
- i) Will P be held liable to pay the purchase price to S if the car is destroyed by lightning on 21 January 2005?
 - ii) Will S be held liable to pay damages to P if the car is damaged in an accident on 21 January 2005 caused by the losing of his temper by S and the intentional driving into someone? (14 marks)

TOTAL: 25 Marks

QUESTION TWO

a) X leases a smallholding from Y for a period of five years. In the title deed the plot is described as agricultural ground. X runs a racing stable on the plot. In order to run his business effectively, X builds stables, erects paddocks, constructs a small race track, and establishes an apple orchard and lucern lands from which he can feed horses. At the end of the lease period, X decides to move to a bigger plot so that he is able to expand his business.

i) Would X be able to claim compensation for the apple orchard?

ii) Would X be entitled to claim compensation for the stables and paddocks.
Substantiate your answers.

iii) At what stage would X be able to claim compensation

(15 marks)

b) X is the owner of a business premises. Y concludes an eight year-long term lease with X for these premises. After three years X decides to sell the premises to Z, the director Of a large property group.

i) Would Z be able to evict Y after he had taken transfer of the property? Fully
Substantiate your answer.

ii) Would Y be entitled to terminate the lease after Z had taken transfer of the
property? Fully substantiate your answer.

(10 marks)

TOTAL: 25 Marks

QUESTION THREE

a) Briefly describe what duties an employer must observe in an employer-
employee contract; OR

b) Briefly describe the essential features of an employment contract.

(6 marks)

c) Define the following:

i) A Bill of Exchange

ii) A Cheque

iii) A Promissory note

(9 marks)

d) What are the characteristics of negotiable instruments? Explain.

(6 marks)

e) What essential features must a Bill of Exchange exhibit?

(4 marks)

TOTAL: 25 Marks

QUESTION FOUR

a) XYZ Partnership is sequestrated by Order of the High Court. D is a partner of XYZ partnership. Fully explain to D, the consequences of the sequestration of the partnership.

(10 marks)

b) Explain the difference between a compulsory sequestration and a voluntary sequestration; OR

c) Briefly describe 5 acts of Insolvency in terms of Section 11 of the Insolvency Act [Chapter 6:04].

(5 marks)

d) What is rehabilitation and what effect does it have on an insolvent?

(10 marks)

TOTAL: 25 Marks

END OF EXAM PAPER
