

NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY

BACHELOR OF COMMERCE (HONOURS) DEGREE

COMMERCIAL LAW II : CIN 1204

AUGUST SUPPLEMENTARY EXAMINATION

TIME : 3 OURS

1. Answer any 4 questions.
 2. All questions carry equal marks
 3. Include relevant case law in your answers.
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Question 1

List and briefly explain the essentials of each of the following types of contract:

- (a) Insurance
- (b) Lease
- (c) Sale

[25 marks]

Question 2

- (a) Define a cheque and briefly explain the essential elements thereof.
[10 marks]
- (b) Explain briefly in regard to the following situations involving cheques whether liability attaches to S and state the basis of such liability or absence thereof:
 - i) S draws a cheque in blank which is stolen by an employee of the hotel where he is resident, who buys groceries from a Spar supermarket and tenders the cheque in payment.
 - ii) S, who is a sole trader, at the request of his secretary, signs a cheque which she presents to him as a letter to a supplier. She converts the cheque to her own use.
 - iii) The same secretary had on the same day stolen one of S's cheques from the business cheque book and taken it to the branch of the bank where S has his account. The cheque was encashed to her by a new teller.
[10 marks]
- (c) When is a cheque negotiated and what is required to terminate its negotiability.
[5 marks]

Question 3

X buys a sheep which subsequently dies of heartwater sickness which was present at the time of the sale, but discoverable at that stage only by a veterinary surgeon. X promptly burns the carcass. Nevertheless seven of this other sheep have already been infected by the diseased animal which subsequently died and these sheep also die. Advise X as to what action, if any, he may bring and also what remedies may be available to him, in the following situations:

- (a) X bought the sheep from a dealer;
 - (b) X bought the sheep from a friend;
 - (c) X bought the sheep from a friend who knew, from a prior veterinary inspection, about the animal's illness but did not tell X.
 - (d) The sheep was sold "voetstoots".
- [25 marks]**

Question 4

- (a) S sees a car advertised for sale by T at \$10 million. After work he visits T and it is agreed he will buy the car. S tells T he will bring the money on the following morning and collect the car at the same time. T agrees. That evening, as always, he locks the car in his garage. Overnight it is stolen. Next day S arrives to be told by T what had occurred. He is about to leave when, to his surprise, T says: "Mr S, what about my money?" Advise S.
 - (b) Would your advise to S be different if, contrary to his customary practice, T, since he expected the car to be collected in the morning had, on this occasion simply left the car locked and parked in the street?
 - (c) Is there anything S could have done to protect himself against the occurrences described?
- [25 marks]**

Question 5

X employs Y as a driver of his delivery vehicle. His duties are strictly limited to deliver small orders within a radius of 50 kilometers of X's business premises and warehouse. He is specifically prohibited from giving lifts to any passengers including other employees of X.

One day, whilst driving alone on a delivery, A, an employee of X encounters Y at premises where he is making a delivery and requests him to assist him to travel to a clinic, well beyond the limits of the area in which he does his deliveries, to visit his sick uncle. X does so after completing his deliveries. Whilst on the way, but beyond the 50 kilometer radius from his employer's place of business, at a regulated intersection, X is involved in a collision with another vehicle. In consequence A is instantly killed and both vehicles are severely damaged.

- (a) Advise both X and Y of their legal liabilities, if any.
- (b) Would it make any difference to your answer if the truck contained lettering which read: “Driver instructed not to carry passengers” in bold red letters, as well as the normal “No unauthorized passengers allowed” signs?
- (c) Would the fact that A and Y had stopped off at a bar before the collision make any difference to your advice?

[25 marks]

END OF EXAMINATION PAPER