

**NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY
FACULTY OF ARCHITECTURE AND QUANTITY SURVEYING
BACHELOR OF QUANTITY SURVEYING (HONOURS) DEGREE
PART I SECOND SEMESTER EXAMINATIONS - MAY 2005**

LAW: CONSTRUCTION AND ENGINEERING I – AQS 1205

TIME: 3 Hours

TOTAL MARKS: 100

INSTRUCTIONS:

Answer both Questions in Part A and any three in Part B.

PART A

QUESTION 1 (COMPULSORY)

- a) Discuss briefly the six requirements of a valid contract. (12 marks)
- b) Give three examples of classes of persons who have limited contractual capacity. (3 marks)
- c) “On grounds of public policy the common law prohibits certain types of contracts and treats them as void”.
Briefly discuss this statement with aid of case law authorities. (5 marks)

QUESTION 2 (COMPULSORY)

“Negligence as a tort, is the breach of a legal duty (by the defendant) to take care which results in undesirable damage to the plaintiff”.
Discuss this statement with aid of case law authorities. (20 marks)

PART B

QUESTION 3

Explain briefly what you understand by the following:

- a) The Tort of trespass (12 marks)
- b) The tort of nuisance (8 marks)

QUESTION 4

The process of building procurement involves a series of different specialists in contributing to the work at different times. These people have widely differing skills since they work for different organizations, in different geographic locations and at different times. The levels of understanding between them is often less than would be desirable.

Discuss the statement above, paying particular attention to the common problems encountered in the construction industry.

(20 marks)

QUESTION 5

- a) Sub-contracting is prevalent in the construction industry. Briefly outline the reasons for such prevalence. (6 marks)
- b) What do you understand a “Domestic” sub-contractor to be? (4 marks)
- c) With aid of case law authorities discuss the liability, of a sub contractor to the main contractor in the event of a breach of any term of the sub contract. Relate your answer to both the aspect of tort and contract.

QUESTION 6

A contract may be discharged through the following methods:

- a) Novation
- b) Cession
- c) Supervening impossibility
- d) Set off
- e) Prescription
- f) Death

Describe briefly any four of the above methods of discharge, giving examples and case law authorities where applicable.

(20 marks)

QUESTION 7

- a) “Specific performance will not be granted when compliance would be impossible or where undue hardship would be imposed on the part in default or third parties”
Discuss this statement with aid of examples and case law authorities. (14 marks)
- b) Briefly explain what you understand by the following remedies for a breach of contract, referring where applicable to relevant case law authorities.
- (i) Interdict (3 marks)
 - (ii) Damages (3 marks)

END OF EXAMINATION