

DEGREE OF BARRISTER-AT-LAW

ENTRANCE EXAMINATION

LAW OF CONTRACT

August 2021

DATE | Friday, 13 August 2021

TIME | 3.5 hours

EXAMINER | Professor Raymond J Friel (UL)

EXTERNAL EXAMINER | Mr James O'Callaghan SC

Instructions

A candidate must answer **Question 1** (50% of marks) and **TWO** other questions (each 25% of marks).

This paper is 6 pages long including the cover sheet.

LAW OF CONTRACT

Q1 | COMPULSORY QUESTION

50 MARKS

Acme Industries DAC makes and bottles perfumes under licence for many companies. At the beginning of January, Acme Industries began negotiating a contract with Elderflower Perfumes DAC for the production of 20,000 bottles of their Elderflower perfume annually. All the negotiations occurred via video conferencing and were recorded with the agreement of both parties.

During the course of the negotiations, Elderflower stated that it was crucial that production of the perfume was to be divided equally over 9 months with no production of the perfume from January to March. The aim was to have maximum stock for the Christmas period. However, Acme insisted that they could only undertake best efforts in producing the perfume over the 9 months and that production of the total order may take the full 12 months of the year. Acme's concern was that production demands from their other customers might interfere with delivering on the 9 month schedule. Elderflower said they could agree to this but only if Acme did not prioritise other customers. Both parties also agreed that any alteration to production specifications would be paid by Elderflower to Acme in an amount equal to the cost of the alteration.

A written contract encapsulating this agreement was issued by Acme to Elderflower but it omitted the promise by Acme not to prioritise other customers to the detriment of Elderflower's production requirements. It also contained an 'entire contract' clause. On receipt, Elderflower signed and returned the contract. In a follow up meeting by video conference, Elderflower asked Acme to change the bottle shape of the perfume from round to square shaped as this made it easier to transport. Acme said that was fine and there would be no charge for a differently shaped bottle. Acme said it would issue an amendment to the contract but never did.

Production began in April but never met expectations so by the time Christmas came, production was well behind. Acme also submitted an additional bill of €20,000 (€1 per bottle) for the additional charge arising due to the change from a round to a square bottle. The €1 price increase included 20 cents of additional profit for Acme.

Advise Elderflower of their legal position under the law of contract.

LAW OF CONTRACT

Q2

25 MARKS

There was a wedding dress for sale being advertised in the local newspaper: “Wedding dress for sale: €1000 no offers, must pay cash in full”. Sharon saw the advertisement and called around to Mary, who was selling the dress. Sharon wanted the dress badly but did not have sufficient cash on her. She asked Mary if Mary would give her until the following morning to return with the full amount for the dress.

Mary was hesitant, saying that she would be concerned that Sharon might not return, and that Mary would lose the chance of selling the dress later that evening. Sharon was distraught and wanted to know what it would take for Mary to not sell the dress until Sharon returned the next day with the money. Sharon then said: “Mary, please let me come back tomorrow to buy the dress. If you promise that, you can hang on to this necklace of mine.” Mary relented, took the necklace, and said Sharon had to return the next day before 10am or the dress would be up for sale again.

Sharon returned the next day at 10:01am. Mary said that she had just that minute sold the dress to someone online. Mary also said that she was keeping the necklace as she had held the dress for Sharon until 10am as agreed. Sharon says that she had only intended the necklace as a sign of good faith.

Advise Sharon as to her legal rights under the law of contract.

LAW OF CONTRACT

Q3

25 MARKS

Michael and Dwight were two friends. One day over lunch Michael held up a screenshot of a ticket for the Mill-EU-naire lottery. He loudly stated to Dwight: “My psychic told me last week that I would come into a great fortune. So I bought this ticket. At the end of the week, when they draw the numbers, I will win €1 million!”

Dwight scoffed at Michael and replied “That is ridiculous. The chances of you winning are the same as the moon crashing into the Earth. You should invest your money into something real.” With that Dwight wrote a 12-digit number on a napkin and continued: “This is the number of my account with 5 flopcoins – a new digital cryptocurrency. It will be worth €1 million by the end of the week.”

At that both thought for a while and then Michael spoke: “Why don’t I sell my ticket to you for your 5 flopcoins?” Dwight remained silent for a while and then finally said “Done!”

Michael forwarded the screenshot of the ticket to Dwight, who handed Michael the napkin. Both Michael and Dwight felt they had the better deal. As it transpired, at the end of the week, while the lottery ticket did in fact win €1 million, the flopcoins were exposed as a fraudulent scheme and were worthless. Michael now wants to claim the lottery winnings, arguing that the agreement was invalid as the flopcoins were worthless.

Advise Michael as to his legal position under the law of contract.

LAW OF CONTRACT

Q4

25 MARKS

One day Phil called to Clare's home and asked if she had any work around the house that she would like him to do. Clare had a long list of jobs that she wanted done and she agreed with Phil that if he did the full list of jobs that she gave him, she would pay him €3,000. However, she made it clear that he had to finish the work in 3 weeks as she was having a large party then and wanted the house looking well.

At the end of the first week, Phil became unwell. When he went to the hospital, they said he might have a rare disease. They told him it would take about a week to get the results back. Phil decided to rest up for that week. He was confident that if the results came back clear he would have enough time in the final week to finish the work on Clare's house.

Clare was not aware of this. Phil was not answering his phone. On her last attempt she left a message saying that she assumed he was not completing the work and that she had hired someone else to finish the jobs in time for the party. She said that Phil would not be getting any money from her for the work he had done in the first week.

Phil was given the all-clear and when he went back to work on Clare's house he was shocked to see someone else doing the jobs.

Advise Phil as to his legal position under the law of contract.

LAW OF CONTRACT

Q5

25 MARKS

In relation to any **TWO** of the following issues, comment on whether the law is in need of reform, illustrating your answer with relevant case law where appropriate:

- (a). The term 'Contract Denied' in contract negotiations
- (b). Specific Performance as a remedy
- (c). Capacity in contract law.