Cambridge International A Level

Cambridge International Examinations
Cambridge International Advanced Level

LAW **9084/31**

Paper 3 Law of Contract **October/November 2014**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

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READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
Do not use staples, paper clips, glue or correction fluid.

Answer **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

At the end of the examination, fasten all your work securely together.
The number of marks is given in brackets [ ] at the end of each question or part question.

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Answer **three** questions, at least **one** of which must be from Section A and **one** from Section B.

Section A

1 Critically assess the value to a judge of the officious bystander and business efficacy tests when deciding whether or not a contractual term should be implied in fact. [25]

2 The decision of the House of Lords in Transfield Shipping v Mercator Shipping (The Achilleas) [2008], represents a tightening up of the remoteness of damage principle that limits the potential award of damages for breach of contract.

Using case law to illustrate, trace the development of the remoteness of damage principle and critically assess whether there has been a change in the application of the principle in subsequent cases. [25]

3 The performance of an existing duty is insufficient in law to make a promise enforceable.

With reference to case law, discuss the extent to which you agree with this view. [25]

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Section B

4 Lexus has often spoken with his business associate, Mercedes, about the possibility of selling his antique writing desk to her. Although there has been discussion about the price and Lexus has said that he wants about £1500 for the desk, Mercedes has not yet decided to buy it.

Several weeks later, Lexus is working away from home when Mercedes sends him an email which includes the words: "Let's stop debating the price for the writing desk. Unless I hear from you by Friday this week, I'll assume the desk is mine for £1500." Lexus reads her email quickly but is too busy to respond.

Lexus doesn't return home at the weekend, but goes to visit a friend, Kia. During his stay with Kia, Lexus agrees to sell the writing desk to her for £1400. When Mercedes hears about this, she informs Lexus that she believes the desk belongs to her.

With reference to decided case law, advise the respective parties of their contractual rights and liabilities in this situation and consider the remedies that might be granted. [25]

5 Umberto and his wife operate a business under the name of Umberto & Co (U&C). The company wants to buy a motor scooter which is to be used by Umberto for both business and personal purposes.

U&C agrees to buy a Wasp scooter at a discount price from motor scooter suppliers, Viaggio (V), but has to sign a contract that excludes V for non-performance of the contract in return for the discount price.

V is unable to supply U&C with a Wasp but the company agrees to take delivery of a Hornet scooter instead. The Hornet keeps breaking down and the company now wishes to return it and get its money back from V.

V relies on the exclusion clause and denies any contractual liability; advise U&C of any contractual rights it might have in this situation. [25]

6 Queenie is employed in Kingsley's hotel as a housekeeper and has worked for him for over 20 years. Kingsley decides to buy a new car and tells Queenie that, as she has done such a good job looking after an unusually large number of visitors to the hotel last summer, he will give his old car to her.

Consequently, as Queenie already has a car of her own, she sells it and promises to give the money she receives from the sale to her daughter, Donna.

A week later, Kingsley decides that his old car is better than the newer model and that he will keep it instead of giving it to Queenie. Consequently Queenie does not give any money to Donna.

Using relevant supporting case law, advise Queenie and Donna of their legal positions and explain what remedies, if any, they might pursue. [25]

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