

CA



THE INSTITUTE OF
CHARTERED ACCOUNTANTS
OF SRI LANKA

SUGGESTED SOLUTIONS

KE3(B)-Fundamentals of Law

September 2018

SECTION 01

Answer 01

1.1

| |
|---|
| Learning Outcome/s: 1.3.1 |
| Identify the Courts in Sri Lanka and their functions. |
| Study text reference – Pages 16-21 |
| Correct Answer: C |

1.2

| |
|---|
| Learning Outcome/s: 2.4.1 |
| Explain the manner in which a contract could be discharged by performance, agreement, frustration and breach (including anticipatory breach). |
| Study text reference: Pages 63-65 |
| Correct Answer: A |

1.3

| |
|--|
| Learning Outcome/s: 3.1.1 |
| Discuss the difference between a contract for sale of goods and a contract for work and material, and classification of goods. |
| Study text reference: Pages 81-82 |
| Correct Answer: C |

1.4

| |
|---|
| Learning Outcome/s: |
| 3.6.1 Identify the differences between a CIF contract and a FOB contract. |
| 3.6.2 Explain the process of a Letter of Credit. |
| 9.1.1 Explain the process of international sale of goods, with reference to finance and letter of credit, transportation, insurance and bill of lading |
| Study text reference: Pages 246,247, 249, 252, 253, |
| Correct Answer: D |

1.5

| |
|--|
| Learning Outcome/s: 4.2.1 |
| Explain in respect of the following, the applicable principles of cheque law and their commercial significance (endorsements, crossings, dishonor and banker's liability). |
| Study text reference: Pages 108 and 113 |
| Correct Answer: B |

1.6

| |
|---|
| Learning Outcome/s: 5.5.1 |
| State the liability of agents for acts done whilst acting within actual authority, within ostensible authority and without authority. |
| Study text reference: Pages 133-134 |
| Correct Answer: B |

1.7

| |
|--|
| Learning Outcome/s: 5.7.5 |
| State the relationship between partners. |
| Study text reference: Pages 146 |
| Correct Answer: B |

1.8

| |
|---|
| Learning Outcome/s: 7.1.1 |
| State who should contribute to EPF and ETF, along with relevant exemptions. |
| Study text reference: Pages 210 |
| Correct Answer: C |

1.9

| |
|-------------------------------------|
| Learning Outcome/s: 7.4 |
| Termination of employment |
| Study text reference: Pages 213-215 |
| Correct Answer: C |

1.10

| |
|---|
| Learning Outcome/s: 8.1.1 |
| Define fraud, theft, money laundering bribery, negligence and explain the main defences |
| Study text reference: Pages 237-239 |
| Correct Answer: D |

(2 x 10 = Total 20 marks)

SECTION 2

Answer 02

2.1

| |
|--|
| Learning Outcome/s: 1.4.2 |
| Identify the main functions of each institution stated above. |
| Study text reference: Page 24 |
| The main functions of the BOI are as follows: <ul style="list-style-type: none">• To attract foreign direct investment and domestic investment.• To assist investors in all stages of the process, from the application stage to commercial operations.• To establish and manage export processing zones which are available to investors to set up industrial and commercial enterprises.• To diversify the sources of foreign exchange earnings.• To increase the export earnings. |

2.2

| |
|---|
| Learning Outcome/s: 2.1.1 |
| Explain the requisites of a valid contract i.e. offer and acceptance, intention to create legal relations, considering (including the concept of "LaesioEnormis"), capacity and form'. Definition of contract agreement, offer and acceptance capacity to contract, form of contracts, "reality of consent" |
| Study text reference: Page 34 |
| The main elements or requirements to form a valid contract in law are: <ul style="list-style-type: none">• There should be a valid offer.• There should be a valid acceptance.• The parties must have an intention to create legally binding relations.• The terms of the contract, should be certain.• The performance of the contract should be possible.• There must be a genuine consent or agreement of the parties to the contract.• The parties should have capacity to contract.• The objective of the contract should be legal. |

2.3

| |
|--|
| Learning Outcome/s: 4.1.1 |
| Define and identify differences between cheques, bills of exchange and promissory notes. |
| Study text reference: Page 102 |
| The main characteristics of a negotiable instrument are as follows: <ul style="list-style-type: none">• The title to it passes on delivery (if it is a bearer instrument).• The title to it passes on delivery and endorsement (if it is an order instrument).• The holder for the time being can sue in his own name.• No notice of assignment need be given to the person liable thereon.• A bona fide holder for value takes free from any defect in the title of his predecessors. |

2.4

| |
|---|
| Learning Outcome/s: 7.3.4 |
| Termination of employment |
| Study text reference: Page 204 |
| The maternity leave entitlement applicable for the 2 nd confinement (of a live child) is as follows: <ul style="list-style-type: none">• 14 days prior to the confinement (of which the unutilised days can be carried forward to the leave entitlement after the date of the confinement) and• 70 days after the date of the confinement;• In total = 84 days. In the given scenario, as Yashi has not utilised the 14 days before the date of confinement, she can carry that forward. Therefore she is now entitled for 84 days maternity leave, from the date of her confinement. |

2.5

| |
|--|
| Learning Outcome/s: 8.2.1 |
| State briefly on each of these Acts: Prevention of Money Laundering Act. No. 05 of 2006. Electronic Transaction Act No. 19 of 2006. Computer Crimes Act. Consumer Protection Act, Intellectual Property, Act No. 36 of 2003. |
| Study text reference: Page 224 |
| The main objectives of the Computer Crimes Act, No. 24 of 2007, are: <ul style="list-style-type: none">• To identify computer crimes.• To provide a procedure to investigate such crimes.• To prevent such crimes. |

(2 x 5= Total 10 marks)

SECTION 3

Answer 03

(a)

| |
|----------------------------------|
| Learning Outcome/s: 2.2.2 |
|----------------------------------|

| |
|-----------------------------------|
| Study text reference: Pages 50-51 |
|-----------------------------------|

In the given scenario, you are told that there was no negligence on the part of Sirinimal (S) in making the endorsement on the bill.

Therefore it is clear that S has entered into a contract relating to a bill of exchange, on the genuine mistaken belief that he is entering a contract of a totally different nature. [i.e.: There is no genuine consent (or realty of consent) on the part of S to enter into a contract relating to a bill of exchange.]

Therefore it is clear that there is a mistake as to the nature of the contract itself.

A contract entered into with such a mistake, renders the contract void and not binding on the parties.

In such an instance the party so involved will not be liable for the transaction and such transaction will be void.

Similar facts were discussed in *Foster v Mackinnon (1869) L.R. 4 .P. 704* where an elderly person whose eye sight was not good, endorsed a bill of exchange thinking it was a guarantee. It was established that there was no negligence on M's part in making this endorsement.

Held: As Mackinnon was not negligent in making the endorsement, the contract is not binding on him, hence is void.

In conclusion, considering the above facts, S is not bound by the contract for the bill, and is therefore not liable on the bill of exchange he signed.

(b)

| |
|----------------------------------|
| Learning Outcome/s: 2.5.1 |
|----------------------------------|

| |
|-------------------------------|
| Study text reference: Page 68 |
|-------------------------------|

An injunction is an order given by a court prohibiting a party from breaching obligations under a contract.

Granting an injunction is an equitable remedy, which is at the discretion of the court.

Similar facts were discussed in the following case:

Case Name:

Warner Brothers Pictures v Ingolia (1956) NSW 988

Case facts:

Ingolia agreed to sing for Warner Brothers Pictures (WBP) in America. But after disputing her contract, she flew to Australia and commenced performing at a theater. WBP sued her and asked for an injunction preventing her from singing in Australia.

Held : The court granted the injunction as she had breached her contract with WBP.

Therefore considering the above, the court may in all probability grant an injunction in the given scenario, as it seems that Suki had breached / intends to breach, her contract with the Lanka Literary Society.

(Total: 10 marks)

Answer 04

(a)

| |
|----------------------------------|
| Learning Outcome/s: 3.3.1 |
|----------------------------------|

| |
|-----------------------------------|
| Study text reference: Pages 91-92 |
|-----------------------------------|

This is a sale of goods contract for installment deliveries.

A similar incident to that of the given scenario, was discussed in the following case:

Case Name:

Robert A. Munro and Co. vs Meyer (1930) 2 K.B. 312.

Case facts:

A sold 1,500 tons of meat and bone meal, of a specified quality, to B. These goods were to be shipped at the rate of 125 tons per month.

After about half of the goods were shipped and paid for, B discovered that they were not of the specified quality, and hence could have been rejected. Therefore B refused to take any further deliveries.

Held: B was entitled to reject the future deliveries; as he was not bound to take the risk of having put upon him further deliveries of goods which did not conform to the contract.

In the given scenario, A has breached the contract by not supplying goods as per the agreed quality.

Further there seems to be a high degree of probability that the future delivery of 500 tons too would be of the same quality as the first two installment deliveries.

As a result B has a right to repudiate the whole contract and reject the future deliveries, as he is not bound to take the risk of having put upon him further deliveries of wheat which may not conform to the contract.

B can also opt to accept the future installment of wheat and claim damages from A for breaching the contract by delivering to B wheat of a different quality.

(b)

| |
|----------------------------------|
| Learning Outcome/s: 5.7.5 |
|----------------------------------|

| |
|--------------------------------|
| Study text reference: Page 147 |
|--------------------------------|

In relation to the given scenario, where C sold her own goods to the partnership at the market price and without the knowledge of her partner M, C had an obligation imposed by law to comply with the following duties towards M:

- Render true accounts and full information on all things affecting the partnership, in this instance details of the sale of C's goods to the firm,
- Account to the firm for any benefit C derives without the consent of M, from this transaction,
- To disclose any secret profit C made in this dealing with the firm and to account for that profit to the firm

Further the principle laid down in the following cases, applies to the given scenario:

Case No. 1:

Case Name:

Bentley v Craven (1853) 18 Beav.75

Case facts:

Bentley (B) and Craven (C) were partners. C was employed to buy sugar for the firm. C sold his own goods to the firm at the market price, and made a profit. B was not informed of this.

Held: C must account to the firm the profit made from this transaction.

Case No. 2:

Case Name:

Pathirana v Pathirana (1967) 1 AC 233

Case facts:

Pathirana (P1) and Pathirana (P2) were partners in a service station. The service station belonged to a company (Caltex). The company appointed the partnership as the agent of the company. P2 gave 3 months' notice to P1 of the termination of the partnership. P2 also without P1's knowledge negotiated a new agreement with the company to obtain the agency in P2's name only. Subsequently P2 continued to trade in the same way at the same premises of the now dissolved partnership.

Held: By the Privy Council that, P2 must share the profit he makes from this agency with P1 as the agency was a partnership asset.

In applying the above principles to the given scenario, it seems clear that C has breached all of the above principles. As mentioned in the case law above, the obvious remedy for C in this case seems to be to disclose this secret profit and to account to the firm the profit so made.

(Total: 10 marks)



Notice of Disclaimer

The answers given are entirely by the Institute of Chartered Accountants of Sri Lanka (CA Sri Lanka) and you accept the answers on an "as is" basis.

They are not intended as "Model answers", but rather as suggested solutions.

The answers have two fundamental purposes, namely:

1. to provide a detailed example of a suggested solution to an examination question; and
2. to assist students with their research into the subject and to further their understanding and appreciation of the subject.

The Institute of Chartered Accountants of Sri Lanka (CA Sri Lanka) makes no warranties with respect to the suggested solutions and as such there should be no reason for you to bring any grievance against the Institute of Chartered Accountants of Sri Lanka (CA Sri Lanka). However, if you do bring any action, claim, suit, threat or demand against the Institute of Chartered Accountants of Sri Lanka (CA Sri Lanka), and you do not substantially prevail, you shall pay the Institute of Chartered Accountants of Sri Lanka's (CA Sri Lanka's) entire legal fees and costs attached to such action. In the same token, if the Institute of Chartered Accountants of Sri Lanka (CA Sri Lanka) is forced to take legal action to enforce this right or any of its rights described herein or under the laws of Sri Lanka, you will pay the Institute of Chartered Accountants of Sri Lanka (CA Sri Lanka) legal fees and costs.

© 2013 by the Institute of Chartered Accountants of Sri Lanka (CA Sri Lanka).

All rights reserved. No part of this document may be reproduced or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Institute of Chartered Accountants of Sri Lanka (CA Sri Lanka).
