

'A' LEVEL LAW

LAW OF CONTRACT

STUDY GUIDE FOR MODULE 2574
2001-2002

ASIF TUFAL

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Module 2574

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Offer and acceptance

WHAT YOU NEED TO KNOW

Principles and evidence of agreement. Offer, invitation to treat; counter offer; request for information; termination; acceptance; auctions; tenders; collateral contracts; multipartite agreements; dealing with machines.

RECOMMENDED READING

Elliot and Quinn, *Contract Law*, Longman, ch 1

PAST EXAM QUESTIONS

1. Critically consider the importance of making a valid offer in forming a contract.
(Q2 June 2001)

2. Consider how the method of communicating acceptance of an offer may affect its validity.
(Q1 June 2000)

3. Sprinters displays a poster in its shop window advertising a sale and stating that sports goods will be sold at 'rock bottom prices' during the summer holiday period. Tom sees the poster and buys a new tennis racquet. He is annoyed, however, to see an identical racquet at a lower price in another shop later that day and returns to Sprinters requesting a refund.

Sprinters also advertises a special sale on Saturday in which the first 30 customers may purchase any item at half price. Ursula queues early on Saturday and is customer number 28. She selects an exercise cycle, but is told by the cashier that she will have to pay the full price as the manager has just decided to end the promotion.

Meanwhile, Sprinters has become so busy that Vanda, a sales assistant who normally finishes work at 1 o'clock, is asked to stay until 5 o'clock. When she is leaving at the end of the day the manager of Sprinters promises to pay her a £20 bonus 'for being so very helpful'. However, when she receives her pay cheque it is only for the normal amount.

Advise Sprinters of any liability to Tom, Ursula and Vanda.
(Q6 June 1999 – involves other topics)

4. Critically evaluate the ways in which the termination of an offer may take place.
(Q4 June 1998)

5. Critically assess the methods by which an offer may be accepted.
(Q3 June 1997)

6. Whilst on holiday at the seaside Juliet loses several pieces of jewellery. She places a notice in the village shop window, and also puts an advertisement in the local newspaper, saying that she will give a reward to anyone finding and returning any of the specified items of jewellery.

Kevin, who is staying at the same hotel as Juliet, finds a necklace on the beach. He takes it back to the hotel receptionist, who informs Kevin that it probably belongs to Juliet. Kevin gives the necklace to Juliet, but is rather annoyed a few days later to find that a reward was available for the jewellery, and feels that he should have received something.

Lester, a beach patrol officer, finds a ring on the beach whilst on duty. On the way home he notices the advertisement, so calls at Julie's hotel to deliver the ring. Juliet thanks Lester for doing his job so efficiently and closes the door.

A few days later, Michael, the owner of the village shop, finds another of Juliet's rings on the beach. He remembers the notice in the shop window, but knows that it has now been removed. Nevertheless he returns the ring to Juliet, expecting a reward, but Juliet tells him that the removal of her notice has ended the arrangement.

Penny is riding her bicycle along the sea front when she finds Juliet's bracelet. She has seen the advertisement in the local newspaper, and so intends to return the bracelet to claim the reward. At home Penny's sister tells her that the notice is no longer in the shop window, but Penny returns the bracelet anyway.

Advise Juliet as to whether she is obliged by contract to pay the reward money to Kevin, Lester, Michael or Penny.

(Q9 June 1996)

7. Critically examine the ways in which an offer may be terminated.

(Q2 June 1995)

8. Has the law on acceptance developed satisfactorily to deal with modern means of communication?

(Q4 June 1994)

9. Critically explain, using examples to illustrate your answer, what is meant by 'an offer'.

(Q6 June 1993)

10. At 9.00 a.m. on Monday 13 August, Maurice, a car dealer, sends a telex to Austin offering to sell him a rare vintage car for £50,000. Austin receives the telex at 9.15 a.m. and telexes his acceptance at 1.00 p.m. Austin is aware that Maurice's office is closed for lunch between 1.00 and 2.00 p.m. On his return to the office, Maurice does not bother to check whether he has received a telex from Austin and at 2.30 p.m. receives an offer for the car from Ford, which he accepts. At 4.00 p.m. Austin hears from another car dealer that Maurice has sold the car to Ford. He is advised that it will cost him an additional £2,000 to buy a similar car and he immediately sends Maurice another telex demanding that the original car is sold to him. Maurice receives this telex at 5.00 p.m. at the same time as he reads the acceptance telex.

Advise Austin of his legal position and what remedies, if any, are available to him.

(Q10 June 1992)

Consideration

WHAT YOU NEED TO KNOW

Nature; function; sufficiency; adequacy; past consideration; forbearance to sue; performance of an existing duty; part payment of a debt; promissory estoppel.

RECOMMENDED READING

Elliot and Quinn, *Contract Law*, Longman, ch 2

PAST EXAM QUESTIONS

1. Analyse the circumstances in which the performance of an existing duty may amount to valid consideration.

(Q1, June 2001)

2. Jake is developing a leisure centre in time for the summer holiday trade and he contracts with Kanbild to undertake the installation of a swimming pool. Kanbild contracts with Mariner to supply pipes to build the pool. Kanbild begins work in January, but in May he informs Jake that he will not be able to complete the work because of the steep increase in the cost of materials.

Jake agrees to pay more than was originally agreed, so that Kanbild can obtain the materials needed to complete the pool on time. When the work is finished Jake refuses to pay the extra £2000. Six months after Mariner supplied the pipes, he has still not been paid by Kanbild. Both Kanbild and Mariner are now requesting payment from Jake.

Advise Jake whether he must pay Kanbild the extra £2000 **and** Mariner for the pipes.

(Q6 June 2000)

3. Sprinters displays a poster in its shop window advertising a sale and stating that sports goods will be sold at 'rock bottom prices' during the summer holiday period. Tom sees the poster and buys a new tennis racquet. He is annoyed, however, to see an identical racquet at a lower price in another shop later that day and returns to Sprinters requesting a refund.

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Meanwhile, Sprinters has become so busy that Vanda, a sales assistant who normally finishes work at 1 o'clock, is asked to stay until 5 o'clock. When she is leaving at the end of the day the manager of Sprinters promises to pay her a £20 bonus 'for being so very helpful'. However when she receives her pay cheque it is only for the normal amount.

Advise Sprinters of any liability to Tom, Ursula and Vanda.

(Q6 June 1999)

4. Ursula's neighbour, Victor, regularly cleans her windows, for which she pays him £10. On one occasion whilst he is doing the work, Ursula mentions that she is worried about her garden which is in need of maintenance. Victor replies that he will do some work on it when he has the time. Two weeks later Ursula arrives home to find that Victor has mowed the lawns, planted new trees in the garden and cleaned her windows. She is very pleased and promises to pay him £70 for the work on the garden and the usual £10 for cleaning the windows.

Ursula receives a telephone call from Yolanda who supplied Victor with the trees for Ursula's garden. Yolanda requires payment of £50.

Advise Ursula whether she must pay Victor **and** Yolanda.

(Q8 June 1998)

5. Evaluate the circumstances in which performance of an existing duty may amount to valid consideration.

(Q4 June 1997)

6. Alan and Beth decide to extend and redecorate their house, to improve the accommodation which elderly Aunt Carrie occupies, and to provide space for the family's hobbies. Pleased with the result, they hold a small party. Aunt Carrie's accountant, David, is impressed with the work on the house, and offers to pay £1,000 towards it, in order to help support Aunt Carrie. Alan and Beth thank David, and look forward to receiving the money. Two weeks after the party it has not arrived.

Edmund, a wealthy local businessman, who has loaned Alan and Beth £500 towards the cost of the improvements, is also impressed with the work and tells the couple they need not repay the loan. They thank him, saying that they will now be able to go for a short holiday, and take Aunt Carrie with them. However, on return from their holiday, they find a letter informing them that Edmund requests the payment of £500 after all.

Advise Alan and Beth concerning the money from David and the loan from Edmund.

(Q7 June 1996)

7. Certain cases raise 'the suspicion that where a court is determined to make a promise enforceable it can always "find" something of value for which the promise is exchanged.' (Downes, Textbook on Contract)

Discuss this statement in relation to the doctrine of consideration.

(Q1 June 1995)

(See also Q7 June 1995)

8. Leo is a self-employed carpenter. His business is very successful and he does not have enough time to prepare his annual accounts. He telephones Enid, his recently retired secretary, and asks her if she would be prepared to help him. Enid agrees and spends two weeks preparing the accounts. After she has finished, Leo promises to pay her £200 as a sign of his gratitude. Enid does not need the money but asks Leo to send it to her daughter, Cheryl, who is unemployed. One month later Leo has not sent the money to Cheryl and he tells Enid that he has changed his mind about the payment.

Advise Enid and Cheryl.

(Q7 June 1994)

9. In August 1994 Idyllic Hotels Ltd employ Budget Builders to build a 50 bedroom luxury hotel for £20 million. The contract states that the hotel must be completed by May 1st 1996. After twelve months the work on the building has fallen behind and Budget Builders approach Idyllic Hotels to explain that they are in financial difficulties and will not be able to complete the hotel on time. The hotel is fully booked for the 1996 holiday season and Idyllic Hotels offer to pay Budget Builders an additional £125,000 to ensure that the hotel is built in time. Budget Builders agree to this arrangement and continue with the building work. In March 1996, just before the hotel is completed, Idyllic Hotels inform Budget Builders that they do not intend to pay them the additional £125,000.

Advise Budget Builders.

(Q7 June 1993)

10. Is it correct to say that the performance of an existing contractual duty will never amount to sufficient consideration?

(Q1 June 1992)

Legal intent

WHAT YOU NEED TO KNOW

Reason for the requirement; presumption and rebuttal in commercial agreements and in social and domestic agreements.

RECOMMENDED READING

Elliot and Quinn, *Contract Law*, Longman, ch 1

PAST EXAM QUESTIONS

1. Logan invites two friends, Maurice and Nesta, to his house for the evening, on the basis that he will provide the drinks if they bring the food. The friends arrive, but do not bring any food. Logan has provided plenty to drink and is disappointed, so decides to buy some food instead.

The friends see an advertisement for fast delivery of burgers, with 'free dessert with each burger meal'. Logan orders three burger meals, but when he pays the delivery girl he is told that they are not giving free desserts any more because they are busy.

Logan produces a football pools competition form for the three friends to complete and enter together. They do so, each paying towards the entry fee and agreeing to share any money which they may win.

The friends prove to be lucky, and find a week later that they have won £1500 on the football pools entry. However, the football pools organisers are refusing to pay out at all this week due to low funds.

Advise Logan regarding the supply of food for the party, the free desserts and the winnings from the football pools competition.

(Q8 June 2001)

2. Consider whether the courts adopt a satisfactory approach in deciding whether there is an intention to create a legal relationship.

(Q3 June 1999)

3. Three friends, Carrie, Dirk and Elise, enjoy entering competitions so every weekend they spend an evening together doing crosswords. They enter their solution to one particular crossword into a competition, agreeing to share equally any prize money which they may win. As additional entertainment they enter a football pools competition, each paying one pound, again intending to share anything which they win.

To round off these social evenings the three friends eat together. This week they see an advertisement which reads: 'Free with each delicious extra large pizza, one bowl of fresh crunchy salad.' They order a pizza but when it arrives there is no salad and the delivery girl says that they only include these salads when they are not too busy.

One week later the friends are particularly lucky, winning £60 in the crossword competition and £900 in the football pools. Carrie claims that the whole of the £60 should really belong to her as she solved most of this particular crossword. To add to their problems, the football pools company informs them that it is suspending payments and will not be handing over the £900.

Advise the three friends as to their position regarding:

- The salad;
- The crossword prize;
- The money won on the football pools.

(Q8 June 1997)

4. Why do the courts require legal intent in the formation of a contract? How is this determined?

(Q1 June 1996)

5. Whilst out shopping for himself and his neighbour, Jim notices the following promotional campaign in the window of a shop called Wizelectrics, 'Any customer purchasing a model Super 99 video recorder will receive a Minilux portable television free of charge.'

Jim is tempted to treat himself to a video recorder under the promotion, but decides to go home to review his finances. On the way he delivers some shopping to his elderly neighbour, Mrs Earnest. She is grateful to Jim and promises him £15 for his recent kindness to her. However she does not pay him.

Later that week Jim, persuaded by the promotion, decides to buy a video recorder from Wizelectrics. He pays, and the shop assistant places the video recorder on the counter for him to take, apologizing that the last television has been given away that morning and that there are no more available at present.

Advise Jim regarding both the television and the money from Mrs Earnest.

(Q7 June 1995)

6. In order to increase sales UK Petroleum plc devise a promotion scheme which involves giving away a photograph of a famous football player with every four gallons of petrol. Ann's daughter, Helen, is a keen football fan and a member of the local football club. The club starts a competition offering a free trip to the Cup Final at Wembley to the first member who collects the complete set of photographs. After two weeks Helen needs only one more photograph to complete the set. Ann purchases four gallons of petrol at Bert's garage, but Bert refuses to give her a photograph. As a result Helen does not win the competition and is very upset and disappointed.

Advise Ann.

(Q9 June 1993)

Capacity to form a contract

WHAT YOU NEED TO KNOW

Reasons for limitation

Minors - Contracts for necessities; employment and training, continuing obligation; Minors' Contracts Act 1987 (main provisions).

Corporations - Limitations in outline

Persons of unsound mind - Limitations in outline

Drunkards - Limitations in outline

RECOMMENDED READING

Elliot and Quinn, *Contract Law*, Longman, ch 1

PAST EXAM QUESTIONS

1. Ben is a 17 year old student following a course in media studies at Campshire College. Whilst shopping at Downtown Stores he is persuaded by a sales assistant that a computer would be useful to him, so he agrees to buy one on credit. He also decides to buy on credit from the same store an expensive digital camera for his planned holiday abroad.

The bus service to Campshire College is terminated by the local authority, so Ben decides to buy a car in order to attend lectures. He obtains the money for this by a loan from Evergreen Bank, guaranteed by his mother.

Ben later experiences financial difficulties, and is unable to pay either the credit payments to Downtown Stores or the loan repayments to Evergreen Bank. In addition he sells the camera to a friend, retaining the proceeds in his bank account ready to pay for his holiday.

Advise Ben regarding the payments for the computer, the camera and the loan repayments.

(Q6 June 2001)

2. Critically assess the amount of protection which the law gives to a minor who enters into a contract with an adult.

(Q4 June 2000)

3. Aldo, aged 17, is a Law student at Broadshire College. During the first year he enrolls for a course in public speaking with the same college at a price of £200. He pays £20 on enrolment and completes the course. He then fails to make any other payments.

Aldo also books a luxury skiing holiday with Carismatours, to take place during the Easter break. He pays a deposit and agrees to pay the rest in instalments after Easter. He enjoys the holiday, but then, being short of money, does not pay any further instalments. Similarly, he is unable to pay for the skiing equipment which he bought on credit from Downslopes Ltd.

In order to make travelling to college more convenient Aldo buys a modest car, financed by a bank loan from Easybank. The loan is guaranteed by his parents. Again, however, he is unable to make the repayments.

Advise:

Broadshire College;
Carismatours;
Downslopes; and
Easybank;

Whether they are likely to be able to enforce payments.

(Q7 June 1999)

4. 'Minors are clearly in need of protection in the formation of a contract, but not at the expense of fair-minded adults with whom they may be dealing.'

To what extent does the law of contract support this view?

(Q5 June 1998)

5. Indira, a 17 year old music student, receives promotional material through the post pointing out the benefits of buying goods on credit terms in her local department store, Just-price. She visits the store and obtains, on credit, an expensive hi-fi music system, which the sales assistant assures her will greatly assist her in her studies. Indira also enjoys sport, and is persuaded by the assistant to take out, on credit, a subscription to a television sports channel service.

On the way home Indira meets a friend and, feeling hungry, they visit a small restaurant called Kimberley's and order a meal. Having eaten, they discover that neither of them has any money, so they leave quickly, without paying, when the waiter is not around.

The next day Leo, the waiter, recognises Indira when she passes the restaurant and asks her for the money. She claims that she has none and the waiter takes her address in order to follow up the matter later.

After a few weeks Indira realises that she will not be able to keep up the payments on the music equipment or the television service bought from Just-price and she feels annoyed that she was persuaded to enter into the agreements.

Indira now seeks your advice on the payment for:
the music system;
the television sports service;
the meal.

(Q10 June 1997)

6. Nadine and Olivia, both aged 17, are keen on dancing and theatre and both decide to pursue a career in this field.

Nadine gains a place at stage school, begins her course with enthusiasm. However she soon becomes annoyed at some of the terms to which she finds she has agreed, in particular one which prevents her from taking part in any professional productions during the school vacation, without permission from the school, and another which obliges her to hand over 30% of any earnings from such productions, during her time at the school. Nadine has been invited to take part in a professional play during the summer, and would now like to avoid these obligations.

Olivia's career takes a different course. She borrows money from Countrywide Bank to set up her own small business, selling dance and stage clothing and equipment. She also purchases a mobile telephone for use in the business. She uses the proceeds of the business to pay for

singing and dancing lessons. After a few months, Olivia's main supplier finds out that she is only 17 and refuses to trade further with her. This leaves Olivia without enough income to pay for this month's lessons and her teacher is pressing on her to meet her obligations. She is also behind with the repayments on her bank loan and mobile telephone account, and has received demands for payment.

Advise both Nadine and Olivia regarding the enforceability of any contracts which they may have made.

(Q10 June 1996)

7. To what extent does the requirement of capacity in the formation of a contract provide protection for vulnerable members of society?

(Q3 June 1995)

8. Sean, aged 16, is a keen windsurfer and decides to buy his own windsurfing board and wetsuit. He approaches Sharkvest Bank plc for a loan of £1,000 to purchase the equipment. The bank provides him with the loan on the basis of a guarantee from Sean's mother, Edna. He also enrolls in a one year training course with Surfed Training College at the cost of £2,500. Under the terms of his agreement with Surfed, Sean is required to give them 25% of any prize money he may win in windsurfing competitions for five years after he completes the course. In order to be able to travel to the competitions, Sean buys a luxury car on credit from Status Cars Ltd.

After three months Sean stops repaying the loan to Sharkvest Bank. He also sells the car to a friend and fails to keep up his repayments to Status Cars. On completion of the course, Sean wins several competitions but he refuses to give Surfed 25% of his prize money.

Advise Sean of his legal position.

(Q10 June 1994)

9. Does the present law relating to minors' contracts strike the correct balance between the respective interests of minors and the adults who enter into contracts with them?

(Q5 June 1992)

Contractual terms

WHAT YOU NEED TO KNOW

Express; implied (common law and by the Sale of Goods Act 1979 (as amended)); Protection of consumers.

RECOMMENDED READING

Elliot and Quinn, *Contract Law*, Longman, ch 3 (Terms) and ch 12 (Consumer contracts)

PAST EXAM QUESTIONS

See below.

Types of terms

WHAT YOU NEED TO KNOW

Conditions, warranties, innominate terms; effects of breach.

RECOMMENDED READING

Elliot and Quinn, *Contract Law*, Longman, ch 3

PAST EXAM QUESTIONS

1. To what extent are terms likely to be incorporated into a contract if they were not discussed by the parties at the time of formation?

(Q5 June 2001)
2. 'There are situations when a party to a contract needs to be certain whether their actions will give the other party the right to repudiate the contract.'

To what extent does the distinction which the law makes between the different categories of contractual terms meet this need for certainty?

(Q3 June 2000)
3. 'The initial distinction between a condition and a warranty is now of little significance in the light of the courts' increasing recognition of the innominate term.'

Is this a valid assessment of the types of terms found within a contract?

(Q3 June 1998)

4. Quentin buys a second-hand caravan from Romany Ltd which is described as 'in excellent condition, ideal for all year round family holidays'. After delivery of the caravan, Quentin discovers that there are scratch marks along the side of the caravan body and that the water supply does not function. In addition, when he uses the caravan for a holiday in Scotland, he and his family are cold and it is found that the insulation is inadequate, making the caravan unsuitable for winter use.

At the end of his holiday, Quentin also buys a second-hand television for use in the caravan from a fellow holiday maker, Sharina. Quentin purchases this on the basis of Sharina's assurance that it is reliable and provides a very clear picture. However, on returning home, he finds that the picture becomes blurred after about one hour of use. Quentin attempts to return the television to Sharina the following year when they meet again at another caravan site.

Advise Quentin of any remedies he may have in relation to the caravan and the television, both in misrepresentation **and** under statute law.

(Q7 June 1998)

5. To what extent does the use of the innominate term enable the courts to strike a balance between fairness and certainty?

(Q5 June 1996)

6. Is it correct to say that the importance of an express contractual term will always be determined by reference to the intentions of the contracting parties?

(Q2 June 1994)

7. Bruce is the tenant of a flat which he rents from the local council. The flat is one of twenty in a block of flats all of which are owned by the council. The handrail on the stairs to the flats is broken and dangerous and the lighting on the stairs is frequently out of order. Despite many requests from the tenants the council refuses to repair the handrail or the lighting, claiming that there is nothing in the tenancy agreements which makes the council responsible for maintaining the public areas of the flats. The tenants decide to withhold payment of their rent until the repairs are carried out. The council is now seeking to remove Bruce from his flat for non-payment of his rent.

In an attempt to improve the appearance of the flats, Bruce decides to paint the outside walls. He buys a ladder from DIY Suppliers Ltd after the shop assistant had assured him that it was suitable for such work. However the ladder is too short and, in reaching to paint the top of the wall, Bruce slips off the ladder and breaks his leg when he falls to the ground. Bruce wishes to recover damages for his injury.

Advise Bruce on both these issues.

(Q8 June 1994)

8. 'The essential flexibility, or fatal uncertainty, of innominate terms stems from the fact that it is not possible to predict before the time of the breach what the legal effect of the breach of such a term will be.' (Downes)

Does the recognition of innominate terms introduce an unacceptable level of uncertainty into the law?

(Q3 June 1993)

9. Sludge Ltd is a company which disposes of chemical waste. It has a contract with Nuke Products plc, clause four of which states, 'It shall be a condition of this agreement that Sludge Ltd will visit the premises of Nuke Products plc once a week to collect and dispose of the waste material from the chemical factory'. After three months Sludge Ltd is unable to visit the premises on one occasion because most of its drivers are ill with 'flu. The following week Nuke Products discovers that the waste, which had been collected by Sludge Ltd on previous occasions, had been transported in a vehicle which did not comply with safety provisions of the regulating statute. Nuke Products now wishes to repudiate the contract and it has also refused to pay Sludge Ltd for the work which it has carried out during the past three months.

Advise Sludge Ltd of its legal position.

(Q8 June 1992)

Exemption clauses

WHAT YOU NEED TO KNOW

Statutory controls: Unfair Contract Terms Act 1977; Unfair Terms in Consumer Contracts Regulations 1999. Common law controls on exemption clauses.

RECOMMENDED READING

Elliot and Quinn, *Contract Law*, Longman, ch 4

PAST EXAM QUESTIONS

1. Jenna visits the Kestrel Theatre and hands her coat to the cloakroom attendant. She pays the required amount and receives a ticket on which there is a reference number but no other writing. After the play she returns with the ticket but the coat is no longer there. Jenna asks the theatre company to pay for a new coat, but the manager points to a small notice behind the counter, largely obscured by coats, which says, 'The management and staff of the Kestrel Theatre will not be responsible for any loss of, or damage to, clients' belongings, however caused.'

On the way home Jenna visits Lenton's shop to buy material to make new curtains for her home. Lenton explains that the material is available at a discount price if she is prepared to wait some time for the stock to arrive from a different supplier. When Jenna agrees to this, Lenton gives her a copy of her order, which states the quantity and price, with the phrase 'delivery within 5 working days' crossed through in red pen. Six weeks later the material has still not arrived.

Advise Jenna whether she can take action regarding her coat **and** the curtain material.

(Q8 June 1999)

2. To what extent will an exemption clause be allowed to protect a party from liability under a contract?

(Q2 June 1998)

3. As a hobby, Anneliese designs, and makes, costumes and scenery for amateur theatrical productions. She places an order for a quantity of costume material with a wholesaler, Clothcut, which, bearing in mind the current state of the market, offers her the choice of: (a) supply of the goods by a guaranteed delivery date at a price of £170; or (b) supply of the goods at a price of £120 with the following clause included in the contract, 'We exclude liability for late delivery of goods'. Anneliese chooses to obtain the material under option (b) but, when the material is over six weeks late, she blames Clothcut and says that she will sue.

Anneliese has also bought a machine for attaching buckles from a supplier called Banglers. The machine malfunctions, firing a heavy duty staple into Anneliese's hand, resulting in considerable pain and absence from work for three days. When Anneliese looks at the contract for the machine, she finds that it includes a clause which reads: 'The company will not be responsible for any loss or injury, however caused.'

Advise Anneliese as to any rights she may have against both Clothcut and Banglers.

(Q8 June 1995)

4. Sharp ordered a supply of computer software by telephone from Fudge. At Fudge's request he confirmed the order in writing on Sharp's standard order form. The order stated that the software should be delivered on the following Tuesday. Printed on the front of the order form were the words 'Important – see over for conditions'. The back of the form listed a number of conditions, clause two of which stated, 'All deliveries must be made by the specified date. In the case of late delivery the company will make a charge of £250 for each day beyond the stated delivery date'. Fudge does not bother to read the conditions. Because of a shortage of supplies Fudge is unable to supply the software until ten days after the delivery date and he receives a bill from Sharp for £2,500.

Fudge wishes to know if he must pay the charge.

(Q8 June 1993)

Oxford Cambridge and RSA Examinations

Advanced GCE

LAW

LAW OF CONTRACT 1 2574

Specimen Paper

Additional materials:
Answer paper

TIME 1 hour 30 minutes

INSTRUCTIONS TO CANDIDATES

Write your name, Centre number and candidate number in the spaces provided on the answer booklet.

Write all your answers on the separate answer paper provided.

If you use more than one sheet of paper, fasten the sheets together.

Answer **two** questions, one from Section A and one from Section B.

INFORMATION FOR CANDIDATES

The number of marks is given in brackets [] at the end of each question or part question.

You will be awarded marks for the quality of written communication where an answer requires a piece of extended writing.

Answer **TWO** questions, **one** from Section A and **one** from Section B.

SECTION A

1. Critically evaluate what in law will amount to an 'offer'. **[50 marks]**
2. To what extent does the use of the innominate term enable the courts to strike a balance between fairness and certainty? **[50 marks]**

SECTION B

3. Alan and Beth decide to extend and redecorate their house, to improve the accommodation which elderly Aunt Carrie occupies, and to provide space for the family's hobbies. Pleased with the result, they hold a small party. Aunt Carrie's accountant, David, is impressed with the work on the house, and offers to pay £1000 towards it, in order to help support Aunt Carrie. Alan and Beth thank David, and look forward to receiving the money. Two weeks after the party it has not arrived.

Edmund, a wealthy local businessman, who has loaned Alan and Beth £500 towards the cost of the improvements, is also impressed with the work and tells the couple that they need not repay the loan. They thank him, saying that they will now be able to go for a short holiday, and take Aunt Carrie with them. However, on return from their holiday, they find a letter informing them that Edmund requests the payment of £500 after all.

Advise Alan and Beth concerning the money from David and the loan from Edmund.

[50 marks]

4. Nadine and Olivia, both aged 17, are keen on dancing and theatre and both decide to pursue a career in this field.

Nadine gains a place at stage school, and begins her course with enthusiasm. However she soon becomes annoyed at some of the terms to which she finds she has agreed, in particular one which prevents her from taking part in any professional productions during the school vacation, without permission from the school, and another which obliges her to hand over 30% of any earnings from such productions, during her time at the school. Nadine has been invited to take part in a professional play during the summer, and would now like to avoid these obligations.

Olivia's career takes a different course. She borrows money from Countrywide Bank to set up her own small but successful business, selling dance and stage clothing and equipment, the proceeds of which pay for singing and dancing lessons. After a few months Olivia's main supplier finds out that she is only 17 and refuses to trade further with her. This leaves Olivia without enough business to pay for this month's lessons, and her teacher is pressing her to meet her obligations. She is also behind with the payments on her mobile telephone account, and has received a demand for payment.

Advise both Nadine and Olivia regarding the enforceability of any contracts which they may have made.

[50 marks]