



Association of Accounting Technicians of Sri Lanka

Level II Examination – January 2023

Suggested Answers

(203) BUSINESS LAW (BLA)

Association of Accounting Technicians of Sri Lanka

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THE ASSOCIATION OF ACCOUNTING TECHNICIANS OF SRI LANKA

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(203) BUSINESS LAW

SUGGESTED ANSWERS

(Total 25 Marks)

SECTION - A

Suggested Answers to Question One:

1.1 (2)

1.2 (3)

1.3 (2)

1.4 (4)

1.5 (2)

1.6 (4)



(02 marks each, 12 marks)

1.7 (True)

1.8 (True)

1.9 (False)

1.10

Consent defense refers to the instance, where an authorized disclosure is made to the relevant authorities and consent for the transaction has been obtained, prior to the occurrence of the offence.

(01 mark each, 03 marks)

1.11 Importance of Bill of Lading (Any two (2) of the followings)

1. Act as a receipt for shipped goods
2. Be a proof of existence of a contract of affreightment
3. Being a document of title

1.12 Types of crossing in a Cheque

1. General Crossing
2. Special Crossing

1.13 Remedies available to a buyer under the Sale of Goods Ordinance (Any two (2) of the followings)

1. Action against non-delivery
2. Specific performance
3. Recovery of the price
4. Rejection of goods for breach of conditions
5. Claim damages for breach of warranties

1.14 Types of companies to be registered under the Companies Act No. 07 of 2007 (Any two (2) of the following)

1. Limited companies
2. Unlimited companies
3. Company limited by guarantee

(02 marks each, 10 marks)

(Total 25 marks)

End of Section A

Suggested Answers to Question Two:

Chapter 08 – Law of Insurance, Hire Purchase and leasing

(a)

As the hirer party to the hire purchase agreement, Nimal has the following duties.

- Comply with the hire purchase agreement.
Nimal breached this obligation by failing to pay the agreed installments.
- Take care of the goods.
If the accident happened due to Nimal's negligence, then Nimal did not take proper care of the vehicle
- Inform the location and position of the goods to the owner
Nimal has a duty to inform the vehicle's location to the Sri Lak Enterprises agents in their attempt to repose the vehicle
- Not to cheat or defraud the owner of the goods by fraudulent sale or disposal of goods.
By trying to resell the vehicle to a third party to take advantage of price rise *Nimal is breching this duty*
- Compensate the owner for any damage caused due to non-use of the goods

The following obligations apply to Nimal as the hirer of the party to the Hire Purchase agreement

- To purchase the goods without having to wait for the expiration of the hire purchase agreement.
Nimal reserves the right to take ownership of the vehicle at any time after paying the full amount and sell the vehicle to a third party thereafter
- To terminate the agreement at any time.
- To appropriate his payment regarding the hire purchase agreement where the hirer has more than one hire purchase agreements with the same owner. Generally, this refers to the right of the hirer to apply the payments to such account as he thinks fit.

- Right to assign his interests in the agreement.

- Right to recover any excess of money left when the owner re-possesses a good and sells it
Nimal is entitled to the remaining amount after deducting the amount due to **Sri Lak Enterprises** if the vehicle is sold to another party after **Sri Lak Enterprises** repossess it.

(05 marks)

(b)

It is a right of the owner of a hire purchase agreement to terminate the agreement when there is a default in the payment of the installment or a breach of the agreement by the hirer. The owner could retain the installment and the deposit advanced by the hirer, recover possession of the goods, and claim damages for any loss and to assign his rights and obligations to another party.

Sri-Lak is entitled to repossess the vehicle and sue for damages for breach of contract as **Nimal** has defaulted on payment.

The owner is obliged to supply copies and information of the goods to the hirer. Therefore **Sri-Lak** is obliged to provide any information related to hire purchase agreement to Nimal as well as copies of the agreement.

(05 marks)

(Total 10 Marks)

Suggested Answers to Question Three:

Chapter 04 – Law of Agency

(a)

- **The Agent must have revealed the identity of his Principal.**

If the Agent has entered into the contract by his personal name, the principal is precluded from ratifying such action.

Keighly Maxted v Durrant

The Principal had nominated an Agent to purchase grains at a specific price. The Agent purchased grains and entered into the contract in his personal name at a price above the prescribed price, without revealing his character as an agent. Even if this transaction was ratified by the Principal, the Court was of the view that, since the Agent had not disclosed that he was acting on someone's behalf, the principal was precluded from ratifying the transaction.

- **At the time of making the contract by the Agent, the Principal must have had the contractual capacity.**

Kelner v Baxter (1866) LR 2 CP 174

A promoter who had been tasked with registering a Hotel Company bought on credit a bulk of

Whisky at a considerably lower price, on behalf of the Hotel Company. The Hotel Company later used this Whisky (that means the Company ratified it later). Subsequently, the Hotel Company went bankrupt. In an action instituted by the seller against the Promoter to recover the sale price, the Court pronounced that the ratification was of no legal effect in as much as the Hotel Company did not have capacity to contract at the time the promoter entered into the contract for purchase of goods.

However, an exception to this rule is embodied in Companies Act No. 07 of 2007. According to the Companies Act, the contracts entered into by Promoters on behalf of the future company are considered as valid contracts.

- **Ratification applies only to valid and legally enforceable contracts.**

Brook V Hook (1871) LR 6

In this case the Agent had forged the signature of the Principal in making the contract. Since forgery is a criminal act which rendered the contract void *ab-intio* the Court held that, such a contract could not be ratified.

The effect of a valid ratification is that the Principal is bound by the contract retrospectively that means his contractual liability dates back to the time contract was entered into.

- **Agent should reveal all material facts of the contract to the Principal.**

If the principal consents to an agreement in which the agent concealed the facts and the concealed facts are later discovered, the principal is absolved from liability from the outset.

(06 marks)

(b)

Where an Agent enters into a contract on behalf of his Principal in emergency situation where the instructions of the Principal cannot be sought, an Agency is created as of necessity and in such instance the Principal is bound by the actions of the agent.

For that, following pre-requisites must have been fulfilled.

- I. **There was so emergency situation that instructions cannot be procured from the Principal.**
- II. **There was an actual commercial necessity to act so.**
- III. **The Agent must have acted in good faith on behalf of the Principal.**
- IV. **The Agent's action must be reasonable and prudent.**
- V. **The Principal must not have given prior express instructions to the contrary.**

(04 Marks)

(Total 10 Marks)

Suggested Answers to Question Four:

Chapter 05 – Partnership Law

(a)

In this matter, Jerry has violated the partner's duty to **render true accounts and full information on all things affecting the partnership.**

According to the section 28 of the partnership ordinance, all partners should maintain the transparency of partnership businesses. Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives. If one partner gains an undue advantage by concealing information to other partners, it is a breach of a partner's fiduciary duty.

Bently v Craven is a land mark case in this regard

In this case, a partner (Craven) was assigned to buy goods on behalf of the partnership. He bought a bulk of sugar for a much-discounted price for his personal usage but without disclosing of any such information, he provided sold sugar to the partnership for the market price. The court decided that he has earned a personal profit out of this transaction and further he has not disclosed sufficient information relating to this transaction to other partners. Therefore, the partnership was entitled to recover the profits from him.

In the given scenario, by selling cricket bats to the partnership business at the current market price concealing the discount received, **Ameer** has violated his duty of rendering true accounts and full information to other partners.

(04 marks)

(b)

In this event, **Ameer** sold cricket bats to the partnership at a price which is forty percent higher than the price at which he bought. According to the concepts of partnership law explained above, secret profits earned by a partner must be accounted for the partnership. Hence, **Azar** is entitled to receive half of the profits earned by **Ameer**.

(04 marks)

(c)

In the following instances the court can order the dissolution of the partnership,

- A partner is found lunatic
- A partner is permanently incapable of performing his part of the partnership contract.
- A partner is guilty of conduct which is prejudicial to the partnership contract
- A partner breaches the partnership agreement
- A partnership can only be carried on at a loss or
- The court thinks it is just and equitable to dissolve.

(02 marks)

(Total 10 Marks)

Suggested Answers to Question Five:

Chapter 10 - Offences related to the business environment

(a)

Objectives of the Consumer Affairs Authority

- To protect consumers against the marketing of goods or providing services, which are harmful to life and property of consumers.
- To protect consumers against unfair trade practices, and guarantee that consumers interest shall be given due attention.
- To ensure that wherever possible, consumers have sufficient access to goods and services at competitive prices.
- To seek damages against unfair trade practices, restrictive trade practices or any other form of manipulation of consumers by traders.

(04 marks)

(b)

This Act was introduced to provide for the identification of computer crimes and to provide for the procedure for the investigation and prevention of such crimes.

The provisions of this Act may apply to a person who commits an offence under this Act, while being present in Sri Lanka or outside Sri Lanka. This act will apply where the computer, computer system or information affected or which was to be affected, by the act which constitutes an offence under this Act, was at the material time in Sri Lanka or outside Sri Lanka.

(03 marks)

(c) Following acts are identified as offences under the Act.

- Unauthorized access and securing unauthorized access to a computer.
- Unauthorized access to a computer to commit a crime and securing the unauthorized access of

the computer to commit a crime.

- Destroying, deleting or corrupting, or adding, moving or altering any information held in any computer.
- Obtaining data from sources which are unauthorized to access by using hacking systems.
- Aiding and abetting and conspiracy to engage in crimes committed by computers.

(03 marks)

(Total 10 Marks)

Suggested Answers to Question Six:

Chapter 08 - Law of Insurance, Hire Purchase and leasing

(a)

This situation is explicable with reference to the rules pertaining to change of ownership of goods. In the contract entered into by **Darshi** with **Yasho**, it seems an intention signifying the change of ownership of goods had not been expressly agreed upon. Accordingly, it is necessary to analyse rules prescribed in Section 19 of the Sales of Goods Ordinance which, deals with change of ownership.

Here it is important to identify whether this stock of sugar belongs to the category of ascertained goods or to the category of unascertained goods. **Yasho's** warehouse has other stock of sugar besides the sugar purchased by **Darshi** and there is no evidence that the stock of sugar purchased by Darshi is segregated from the total stock of sugar. Accordingly, the stock of sugar can be identified as ascertained goods

Rule No. 05 of the section 19 of Sales of Goods Ordinance provides that where there is a contract for the sale of unascertained or future goods, ownership property does not pass until the goods are unconditionally appropriated by one party with the express or implied consent of the other party.

Illustrative case laws in this regard are *Pignataro v Gilroy*, *Healy v Howlett & sons* & *East Port Navigation Corporation Case*.

In the matter of *Pignataro v Gilroy*

Pignataro had sent a cheque on 27th February with a view to buying 140 bags of rice from Gilroy, who upon the receipt of the same had issued a dispatch order. Out of the order 125 bags were removed leaving 15 bags at the business premises of Gilroy, which Pignataro did not take out until 25th March, on which date those remaining bags were subject to the offence of theft without any negligence on the part of Gilroy. Pignataro instituted an action against Gilroy claiming damages from Gilroy. The Court held those 15 bags had been unconditionally

appropriated to the contract thus property in the goods had already been passed to Pignataro who consequently had no course of action against Gilroy

In the scenario, there is no evidence that the stock of sugar purchased by **Darshi** is segregated to the contract and to keep separately. herefore the property or ownership of purchased suger stock, did not pass to **Darshi**. By considering the above facts, it could be said that **Yasho** has to bear the losses occurred to the Suger. **Darshi** has a legal right to request money back and refuse to take the dhal stock. Therefore **Yasho** is obliged to give money back to Mohan.

(06 marks)

(b)

An unpaid seller is permitted to re-sale the goods in following circumstances in which 2nd buyer acquires a better title to goods as against the original buyer.

I. When the goods are of perishable in nature

i.e. vegetables, fish or fruits

II. When the goods have been sold retaining the right to re-sale

III. Where the seller has given notice to the buyer of his intention to resell and even after such notice, if the buyer does not pay within a reasonable time

In a case of such a resale second buyer gets a better title than the first buyer

(04 marks)

(Total 10 Marks)

SRI LANKA

End of Section B

Suggested Answers to Question Seven:

Chapter 02 - Contract Law

(A)

(a)

Postal rule applies in this matter.

The general rule is that the acceptance becomes effective only after it is officially communicated to the offeror. The agreement is completed only after the acceptance is communicated to the offeror.

However postal contracts are exception to the general rule.

If the parties have agreed expressly or impliedly to communicate the acceptance by post, then the rule is that acceptance is complete when the letter of acceptance is posted even though the letter is delayed or lost in the post

Aforesaid theory is also known as Adams V Lindsay rule

In this case **Mr. Ginikana** offered to sell his Car to **Ms. Kalpana** on On 12th Monday morning. On the same date **Ms. Kalpana** posted her acceptance. The letter reached A on 14th wednesday. However **Mr Ginikana** had sold the car to **Mr Wilferd** on 13th Tuesday. It was held that a binding contract has arisen as soon as the letter of acceptance is posted on 5th September.

Depending on the given facts **Ms. Kalpana** has posted the letter of acceptance on 12th Monday. Therefore valid postal contract formed in between **Mr. Ginikana** and **Ms. Kalpana** on the same date.

Accordingly, **Mr Ginikana** has broken the agreement by selling the car to **Wilfried** while there is a valid agreement. **Ms. Kalpana** has the right to sue **Mr Ginikana** for breach of contract

Optional Case Laws

Ceylon University V Fernando

Household Fire Carriage and Accident Insurance Company V Grant

(05 Marks)

(b)

According to Law of contract, a contract could be defined as an agreement between parties with an intention to create a legal relationship. Offer is a basic element of a contract and there is no valid contract where there is no valid offer.

Offer must be distinguished from an 'invitation to treat' because acceptance of the invitation to treat doesn't create any valid contract. An expression of willingness to negotiate is known as invitation to treat. Series of decided cases held and followings are instances of invitation to treat;

- An advertisement (Harris V Nikerson , Partridge v Crittenden)
- Auction sales (Payne v Cave)
- Tenders (Spencer v Harding)
- Goods display in a shop to sell (Fisher V Bell , Crawly v Rex)
- Prospectus

In this scenario, **Mr. Ginikana** placed an advertisement in the notice board of court premises. The advertisement placed in relation to the sale of car can be identified as an "invitation to treat/offer" and it does not qualify to be an offer. Accordingly , **Ms. Podi Manike's** Post card can be considered As the identifiable offer in this series of events. **Mr Ginikana** can accept or reject the offer made by **Ms. Podi Manike** by the way of a postcard. There is no valid acceptance done by **M.r Ginikana** regarding Podi Manike's offer. Hence there is not a valid contract between **Mr. Ginikana** and **Ms. Podi Manike**.

(05 marks)

(c)

By the time **Mr. Ginikana** agreed to sell the car to **Wilfried** , the ownership of the car had been transferred to Ms. Kanchana by the way of Postal contract without the knowledge of both parties. Accordingly, it can be concluded that the agreement between **Mr. Ginikana** and **Wilfried** was made by mistake.

A misunderstanding of contractual terms of the contract or an erroneous belief at contracting that certain facts are true can be defined as a mistake. When a material mistake is made the consent provided for offer and acceptance automatically becomes non genuine and for the reason herein such contract can be void

Neither party can enforce the contract when it was formed, as the contract had never been created. Therefore, neither party can enforce any rights or perform any obligations set out in the contract.

Accordingly, **Wilfried** Has no right or obligation under this contract.

(05 marks)

(B) (a)

1. The Control Test

According to the extent that the Employee is subject to the control of the Employer, it is decided whether he is an employee or an Independent Contractor. When an employer can control the discipline whilst a certain person is engaged in providing a service, he is identified as an employee. Discipline means the resolution of the time of commencing work, Leave, duties to be performed by the employee, intervals, time of finishing work, promotions and demotions of the employees.

2. The Equipment Test

Sometimes, even a person not subject to the control can also be an employee. Therefore, a test that can be used further is the Equipment Test. This means that the equipment required for the provision of services are provided by the Employer. At such instance, he is considered as an employee.

3. The Integration Test

If an employee is connected with the business in an inseparable manner or is considered as a part of the business, he is considered as an employee of the business. That means, the service provided by that person to the business should not be an accessory, but should be a main function of the business.

4. The Economic Reality Test

Here, the attention is drawn to the final benefit of the contractual obligation. According to this test, if a person serves for himself, that means if the final direct consequence is attained by him, he is an independent contractor and if the final consequence is attained by the company to which the service is provided, he is an employee working for that company.

5. Multiple Test/ Mixed Test

Currently the courts are not considering the above mentioned tests separately and when it is considered whether a person is an Independent Contractor covered by a Contract for Service or an Employee covered by a Contract of Service, Control test, used together.

(05 marks)

(b)

To reach a conclusion clarifying the nature of the relationship between **Suraksha** and **Sure Insurance Corporation Ltd**, it is necessary to discuss the “**Multiple Test**” under “Identification of distinctions between an Employee and Independent Contractor” of the Labour Law.

When it is considered whether a person is an Independent Contractor covered by a Contract for Service or an Employee covered by a Contract of Service, control test, equipment test, integration test and economic reality test are used together in multiple test.

Aforesaid Test Was applied in *Sri Lanka Insurance Corporation V A.C.R Wijesundara* matter

In this case the issue was with regard to the termination of services of an Assessor who worked in the Sri Lanka Insurance Corporation and the court drew its attention to the fact whether he is an independent contractor or an employee. There, the court considered the following factors together and concluded that he is an employee covered under a contract of employment.

- According to the contract entered into between the parties, the Assessor was bound to work for the benefit of the Insurance Company and when he is not working in that manner the Insurance company has the ability to terminate the employment.
- According to the contract entered into between the parties, the assessor was bound to work for the benefit of the Insurance Company and when he is not working in that manner the Insurance Company has the ability to terminate the employment.
- The assessor providing the services not as an accessory, but as an integral part of the business
- The assessor should report to the higher officers before 9.30 a.m. on every day
- The insurance company is providing the equipment to the assessor and the insurance company is bearing the transport and printing expenses with regard to the valuations.

The incident in question is very similar to the above judgment.

According to the contract entered into between **Suraksha & Sure Insurance Ltd**,

- Suraksha was bound to work for the benefit of Sure Insurance Corporation Ltd. If she fails to do so, the company has the ability to terminate the employment.
- Suraksha should report to the office before 9.30 am every day.
- Sure Insurance Corporation Ltd. provided all necessary equipment to assessors and re-imbursed

the transport and other relevant expenses with regard to valuations.

Considering the facts related to the agreement **Suraksha & Sure Insurance Ltd**, **Suraksha** can be declared as an employee of the **Sure Insurance Ltd** by adopting multiple test.

(05 marks)
(Total 25 marks)



End of Section C

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