

**THE OPEN UNIVERSITY OF SRI LANKA**  
**LL.B. DEGREE PROGRAMME - LEVEL 4**  
**FINAL EXAMINATION - 2006/2007**  
**LAW OF CONTRACTS & AGENCY – LWU 2311**  
**DURATION : THREE (03) HOURS**



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**DATE : 06<sup>th</sup> March 2007**

**TIME : 10.00 a.m. – 1.00 p.m.**  
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Answer **FIVE** questions only. **One question from Part One and Four from Part Two.**

**Illegible handwriting will be penalized.**

**Candidates should assume that each part of sub-divided questions carry equal marks unless the contrary is expressly indicated.**

**PART ONE – LAW OF AGENCY**

**Answer ONE question only from this part.**

01. 'The relationship of Principal and Agent gives rise to rights and duties between them. However, it seems that one of the party's rights are necessarily linked with the duties of the other'

Comment.

02. Aruna was appointed by Sithara, as her agent on 23<sup>rd</sup> February 2007 to purchase Green Apples from the market.

Consider the rights and liabilities of various parties, including the third party in the following instances.

- a) Aruna bought 30 Kilograms of Green Grapes instead of Green Apples from Jaya.
- b) Aruna bought 30 Kilograms of Green Apples on 22<sup>nd</sup> February 2007.
- c) Aruna bought 30 Kilograms of Green Apples and earned Rs. 1250/- apart from the commission given by Sithara.
- d) Aruna sold 30 Kilograms of Green Apples of his own Apples to Sithara stating that he bought them from the market.

03. Rights and duties of the parties including a third party mainly depend on whether the Principal is disclosed or undisclosed.

Examine the validity of the statement referring to decided cases.

## PART TWO – LAW OF CONTRACTS

Answer FOUR questions only from this part.

04. Briefly comment on the following. You are expected to cite decided cases and other evidence to support your answer.

- a) 'There are many contractual undertakings of more complex character which cannot be categorized as 'conditions' or 'warranties...' the legal consequences of breach of such an undertaking, unless provided for expressly in the contract, depend upon the nature of the event to which the breach gives rise and do not follow automatically from a prior classification of the undertaking as a condition or warranty..'
- b) The concept of fundamental breach and anticipatory breach are necessarily linked with legal consequences of breach of condition of a contract.

05. Association of farmers in Kirigama entered into a contract with farmers with a view to regulate dairy production of that village.

- a) The Association promised to buy milk produced by its members in the Kirigama village provided that the members should not sell milk to anyone except to the association.

Farmers seek your advice. Advise them.

- b) Banda, the cold room controller of the association's collecting centre, agreed that he would not at any time be employed as a cold room controller in a similar business within 25 kilometres of Kirigama. However, Banda wants to resign from the job and join another cold store in the near village for a better salary.

Banda seeks your advice. Advise him.

Would your advice differ if Banda agreed not to be employed as a cold room controller in a similar business in Sri Lanka?

06. Fantasy Travels and Tours agreed with Gamini on 01<sup>st</sup> February 2007 to take him from Colombo to Nila-Valley Beach. The package included a cruise around the Pigeon-Island.

Consider the legal position of the following situations.

- a) On 10<sup>th</sup> February 2007, Fantasy Travels and Tours successfully proceeded to Trincomalee along with some other local tourists. The Fantasy Travels and Tours wanted to make the Nila-Valley Beach tour but unfortunately they could not make the cruise due to the restriction made by the Navy Commander. Therefore they returned to Colombo.
- b) On 07<sup>th</sup> February 2007 Fantasy Travels and Tours states that due to unforeseen circumstances such as the increase of fuel price by the Government and bad weather they are not in a position to make the tour.
07. a) "There is no place for the application of the 'Postal Acceptance Rule' in the information communication technology era".
- Critically comment the validity of the statement with reference to decided cases.
- b) Consider the means by which case law and statutory provisions limit the ambit of exclusion clauses in contracts.
08. Critically discuss the nature and effects of the case of *Bell vs. Lever Bros. (1932) A.C. 161* in the development of the doctrine of mistake. Consider the present status of this doctrine by reference to *decided cases*.
09. Compare and contrast the following with reference to decided cases where applicable.
- a) Void contracts and voidable contracts.
- b) Fraudulent misrepresentation and negligent misrepresentation.
- c) Contracts entered by minors and drunkards.
- d) Mutual mistake and common mistake.
10. Write notes on the following.
- a) *contra preferentem* rule
- b) *in pari delicto potior est conditio possidentis*.
- c) *donatio mortis causa* and *donatio inter vivos*.
- d) *deligatus non potest deligare*.