

Unit Title: Principles of Business Law	Unit Code: PBL
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Level: 5	Learning Hours: 160
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Learning Outcomes and Indicative Content:

The candidate should have a knowledge of the principles of law, common law, statutes and primary cases and be able to use this knowledge in the examination.

Candidates will be able to:

1. Understand and explain the Sources of Law and Types of Law

- 1.1 Describe the Common Law; usage and the law pre 1066; Time Immemorial: 1189 the cut off point for common law
- 1.2 Explain equity; a gloss on the common law; Specific Performance and Injunction
- 1.3 Define different types of cases – be able to give their ratios; civil cases; standard of proof – balance of probabilities; criminal cases; standard of proof – beyond reasonable doubt
- 1.4 Describe and explain statutes - the parliamentary process; delegated legislation; EC regulations, directives, decisions, opinions; statutory interpretation; the rules of interpretation
- 1.5 Describe and explain the types of law; civil law; terminology of parties who are involved in proceedings; who brings and defends proceedings; outcomes of proceedings: discharge and remedies; criminal law; parties to an action; terminology of the parties who are involved in proceedings; who brings and defends proceedings; outcomes of proceedings; the application of cases to a given case study; cite and discuss ratios; extrapolate from case law decisions into hypothetical situations

2 Describe and explain Common Law reasoning and institutions

- 2.1 Describe the administration of law: the court system both civil and criminal; the court system may be that of England and/or the candidate's own country
- 2.2 Describe alternative dispute resolution; tribunals; conciliation; mediation
- 2.3 Describe the Personnel of the Law: Officers of the State: Lord Chancellor, Attorney General, Solicitor General DPP; Judges of the various courts: House of Lords, Court of Appeal, High Court, Crown Court, County Court, Magistrates' Court; Barristers, QCs, Junior Barristers; Solicitors; Legal Executives / Para-Legals (within the sense of other jurisdictions); Para-Legals (within the UK sense)
- 2.4 Describe and explain the application of courts' decisions: read, cite and apply the facts and the ratio decidendi of any given case; differences between the standard of proof in civil and criminal law; extrapolate from cases cited to hypothetical situations
- 2.5 Describe and explain application of statutes: the structure of a statute and delegated legislation; to cite name, date, section of statute and be able (if possible) to quote from it verbatim or at least in synopsis form; the elements of regulations, directives; cite name, date, section of instrument and be able (if possible) to quote from it verbatim or at least in synopsis form

3 Describe and explain the different types of business organisation

- 3.1 Describe and define the Sole Trader/Sole Proprietor: trade under own name or subject to the Business Names Act 1985; formation of a business as a sole trader; legal formalities for setting up as a sole trader; legal liabilities of a sole trader; advantages and disadvantages of being a sole trader
- 3.2 Describe and define partnership: Partnership Act 1890 s1; Partnership agreement – Articles of Partnership; Discharge of Partnership; legalities of partnership status; Limited Partnership Act 1906, Limited Liability Partnerships Act 2000, Regulatory Reform (Removal of 20 Limit from Partnerships) Order 2002; dissolution and discharge of members from partnerships; liabilities of partners in partnerships both unlimited and limited
- 3.3 Describe and define limited companies: common law (Salomon v Salomon Ltd) and statutory authority (Companies Act 1985, 1989) their structure and administration; memorandum of association; articles of association; membership, directors, Company Secretary; types of membership and shareholder: holdings founder, ordinary, debentures and others; membership and directors' liability; meetings: Annual General Meeting, Extraordinary Meeting, special meetings, directors' meetings; agendas, minutes, resolutions, questions from the floor; statutory provision for the protection of minority interests, insider dealing, administration orders; dissolution of companies – liquidators; liabilities towards debtors and members; Private Limited Companies and Public Limited Companies – be able to name and distinguish between each; Private Limited Companies – membership, directors, company secretary; Public Limited Companies – membership, directors, company secretary
- 3.4 Define and describe other types of business organisation: cooperatives; franchises

4 Define and explain contract law

- 4.1 Define offer (treitel) and be able to distinguish between other areas of the law: tort and criminal law
- 4.2 Offer – define and discuss on willingness to make an offer, to whom and in what way. Bilateral and unilateral contracts. Vague offers, counter offers, revocation of offers. Cite cases and know Carlill v Carbolic Smoke Ball Company
- 4.3 Distinguish between invitation to treat with an offer. Cite cases
- 4.4 Acceptance - define comment on willingness to accept an offer, to whom and in what way. Bilateral & unilateral contracts. Vague acceptance. Postal and Instantaneous communication rules. Cite cases
- 4.5 Consideration – define and explain, use Sir Fredrick Pollock’s definition in Currie v Misa; executory, executed and past consideration. Cite cases; sufficiency of consideration. Cite cases; performances of a contract. Part performance of a contract, waiver, promissory estoppel Cite cases and know Central London Property Co v High Trees House; privity of contract, contracts (rights of third parties) Act 1999, Beswick v Beswick
- 4.6 Capacity – define and explain; minors - Family Law Reform Act 1969 s1; Minors’ Contracts Act 1987; Void, voidable and unenforceable (explain the differences) contracts against a minor; intoxicated persons; patients (mental incapacity)
- 4.7 Define and explain intention to create legal relations; commercial; collective agreements; social and domestic
- 4.8 Define and explain Concensus ad Idem
- 4.9 Define and explain illegality

5 Define and explain vitiating terms

- 5.1 Mistake: discuss principles and apply case law: common, mutual, unilateral; outline sample cases: Phillips v Brooks. Ingram v Little, Lewis v Averay, Saunders v Anglia Building Society
- 5.2 Distinguish between representation and misrepresentation: define fraudulent, negligent, innocent, cite cases to illustrate each point and their contrasts; misrepresentation Act 1967 s2(1)

6 Describe and explain terms of contract

- 6.1 Define and explain express terms - those which are agreed before or at the time of the making of a contract and which must be freely agreed, cases: for example Thornton v Shoe Lane Parking
- 6.2 Define and explain condition - an important term which goes to the root of the contract which if breached will nullify the contract
- 6.3 Define and explain warranty - a minor term of the contract which if breached will attract damages
- 6.4 Define and explain innominate terms
- 6.5 Define and explain exclusion clause – contra proferentem rule
- 6.6 Define and explain penalty clauses
- 6.7 Define and explain liquidated damages
- 6.8 Define and explain implied terms, those, which as a result of custom, trade, practice or statute are automatically incorporated into the contract
- 6.9 Outline and explain Common Law practice within an industry or commerce; statutes
- 6.10 Outline and explain Sale of Goods Act 1979, Unfair Contract Terms Act 1977, Consumer Protection Act 1989, Unfair Terms in Consumer Contracts Regs 1999, Sale and Supply of Goods to Consumers Regs 2002 - these are examples of statutes to be discussed
- 6.11 Define and explain Illegal contracts and contracts against public policy
- 6.12 Define and explain contracts in restraint of trade (the possible effects on a person's or company's ability to make a living or continue trading.)

7 Define and explain discharge of a contract

- 7.1 Discharge by performance
- 7.2 Complete performance
- 7.3 Part performance of a contract - Equitable Estoppel
- 7.4 Discharge by agreement
- 7.5 Discharge by frustration
- 7.6 The effect of Common Law
- 7.7 The effect of statute
- 7.8 Discharge by breach of contract; anticipatory breach of contract

8 Define and explain remedies for breach of contract

- 8.1 Damages: liquidated and unliquidated
- 8.2 Injunction
- 8.3 Quantum Meruit

9 Define and explain consumer law

9.1 Sale of Goods Act 1979, Supply of Goods and Services Act 1982, Consumer Protection Act 1987, Unfair Contract Terms Act 1977, Trade Descriptions Act 1968, Consumer Credit Act 1974 these are the main enactments but this is not a definitive list, it is merely by way of example. Be able to cite and quote refer to sections

10 Define and explain agency (relevant cases should be cited and discussed)

10.1 Define agency, agent and principal

10.2 Distinguish between the different types of agency express appointment, ratification, implication, necessity and Estoppel; suitable cases to link with these concepts: for example Great Northern Railway v Swaffield

10.3 Define and explain the authority and the relationship between principal and agent

10.4 Rights of an agent

10.5 Rights of a principal

10.6 The duties owed by principal to agent and vice versa; carry out duties and follow instructions personally, with skill and care, no conflict of interests, not make a secret profit, not accept bribes

10.7 Define and explain entitlements to remuneration and expenses, indemnity, insurance

10.8 Define and explain lien

10.9 Liabilities between principal and agent

10.10 Agency in terms of common law

10.11 Agency in terms of the Law of Tort

10.12 Termination of an agency

11 Describe and explain employment law

- 11.1 Discuss the concepts of employment law; The various tests: control, integration, multiple, entrepreneurial; hiring out of employees; difference between employee and self-employed
- 11.2 Describe and explain the contract of employment; the agreement: hours of work, working conditions, salary, holiday entitlements, pensions, other benefits; cite health and safety issues: Health and Safety at Work Act 1974 and regulations and directives emanating from it. Safe system of work, relations with other employees; dismissal, redundancy, constructive dismissal, resignation, notice
- 11.3 Explain employers' responsibilities
- 11.4 Explain employees' responsibilities
- 11.5 Describe and explain employment enactments and regulations
- 11.6 Analyse the Health and Safety at Work Act 1974
- 11.7 Discuss the effects of Equal Opportunities, race relations, human rights on employers and employees; be familiar with relevant legislation
- 11.8 Define and explain the Tort negligence; apply the principals in Donoghue v Stevenson; apply the principals: duty of care, standard of care, breach of the duty of care, damages – foreseeability, remoteness; cite and apply the statutes and case law

12 Describe and explain banking, bankers and customers

- 12.1 Define negotiable instruments, Bills of Exchange Act 1882; distinguish between bills of exchange, cheques, credit cards and debit cards; describe the different types of crossing and know the most popular current one: 'a/c payee'
- 12.2 Draw distinctions between the parties involved in the passing of bills or cheques
- 12.3 Explain the rights and duties of a banker towards the customer both private and business
- 12.4 Explain the rights and duties of the customer towards the bank

Assessment Criteria:

- Assessment method: written examination
- Length of examination: three hours
- Candidates should answer four questions from a choice of eight, each question carrying equal marks

Recommended Reading

ABE, *ABE Study Manual – Principles of Business Law*, ABE

Kelly D, Hayward R, *Business Law* (2005), Cavendish
ISBN: 1859419623

Kelly D, Holmes A, *Questions and Answers Series: Business Law* (1997),
Cavendish
ISBN: 1859412750