



**NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY**

**SCHOOL OF COMMERCE, HUMAN SCIENCES AND EDUCATION  
DEPARTMENT OF SOCIAL SCIENCES**

<b>QUALIFICATIONS: HOSPITALITY AND TOURISM</b>	
<b>QUALIFICATION CODE:</b> 07BTID, 07BCNA, 07BOTM, 07BHOM	<b>LEVEL:</b> 5
<b>COURSE CODE:</b> HTL510S	<b>COURSE NAME:</b> HOSPITALITY AND TOURISM LAW
<b>SESSION:</b> JANUARY 2023	<b>PAPER:</b> THEORY AND CASE STUDIES
<b>DURATION:</b> 2 HOURS	<b>MARKS:</b> 100

<b>SECOND OPPORTUNITY EXAMINATION JANUARY 2023</b>	
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<b>MODERATOR</b>	Ms M Hanekom

<p style="text-align: center;"><b>INSTRUCTIONS</b></p> <ol style="list-style-type: none"><li>1. The paper has 8 main questions.</li><li>2. This paper consists of 8 pages (including cover page).</li><li>3. ALL the questions are compulsory.</li><li>4. Read carefully before answering.</li><li>5. Number the answers clearly and according to the structure in the examination question paper.</li><li>6. Use full sentences and proper paragraphs when answering questions. Use of bullet-points will be penalised, as will poor spelling and grammar and illegible handwriting.</li></ol>
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## QUESTION 1

Choose the correct answer from the given options in each of the following questions. There is only ONE correct answer for each question.

- 1.1 The difference between the passing of the risk rule and the rule of impossibility of performance can be explained as follows:
- A The risk rule is an exception to the general principles of the law of contract.
  - B The rule of impossibility of performance states that the contract terminates in the event of supervening impossibility of performance.
  - C The rule of impossibility of performance states that the contract terminates in the event of supervening impossibility of performance while the risk rule states that the seller will be relieved of his/her duty to deliver if performance becomes impossible, while the purchaser will still be liable for the purchase price if the contract is *perfecta*.
  - D The risk rule states that the seller has a duty to care for the thing from the time of the conclusion of the contract until the time of delivery.
  - E The risk rule will not apply if the parties agree that the risk would not pass to the purchaser. (2)
- 1.2 The following statement is true:
- A A contract of purchase and sale is not *perfecta* if it is subject to a resolutive condition.
  - B A contract of purchase and sale is *perfecta* if it is subject to a suspensive condition.
  - C A contract of purchase and sale is *perfecta* if the price is fixed or determinable, the thing is specified and the parties have the intention to conclude a contract of purchase and sale.
  - D After conclusion of a contract of purchase and sale, the purchaser bears the risk for any accidental damage to the thing from the moment the contract is *perfecta* until the time of delivery.
  - E The risk doctrine is applicable to all contracts. (2)
- 1.3 The following is not a duty of the purchaser.
- A Pay the purchase price.
  - B Accept delivery of the thing.
  - C Reimburse the seller for expenses.
  - D To bear the risk for any accidental damage to the thing if the contract is still subject to a suspensive condition.
  - E Pay transfer duty in respect of immovable property unless the parties expressly agree otherwise. (2)

- 1.4 With regards to revocation and lapsing of offers which statement that follows is **false**:
- A Revocation of an offer can take place once the offeree has accepted the offer.
  - B An offer can be revoked at any time by the offeror provided acceptance has not taken place; there is no option and the revocation is communicated to the offeree.
  - C In the absence of revocation, and any stated time limit, the offer remains open for a 'reasonable period'.
  - D An option is a contract in terms whereof an offer remains irrevocable for a specified period of time.
  - E An offer lapses upon the death of either the offeror or offeree. (2)
- 1.5 A mistake regarding performance renders a contract:
- A Valid
  - B Void
  - C Terminated
  - D Breached
  - E None of the above (2)
- 1.6 The prescription period for a debt due in terms of a contract is:
- A. 1 year
  - B. 3 years
  - C. 6 years
  - D. 30 years
  - E. 15 years (2)
- 1.7 One of the following is a reason for cancellation of a contract in the event of *mora debitoris*:
- A When the creditor has made time of the essence by means of a notice of rescission.
  - B When the breach of contract is excusable.
  - C When no cancellation clause *is present in the contract*.
  - D When an award for damages will adequately compensate the plaintiff.
  - E When the breach of contract is not material. (2)

**QUESTION 1 CONTINUES ON THE NEXT PAGE**

- 1.8 A plaintiff who intends to claim damages for a breach of contract must prove:
- A Damage, legal causation and a breach of contract.
  - B Mitigation of damages, a breach of contract that the damage was reasonably foreseeable or agreed to by the contracting parties.
  - C Factual causation between the breach and the damages, a breach of contract, mitigation of damages, reasonable foreseeability of damages and damage.
  - D A cancellation Clause, factual causation, mitigation and reasonable foreseeability of the damage.
  - E None of the above. (2)
- 1.9 Rooney rents a car from Liverpool Car rentals CC and it is agreed between the parties that Rooney would collect the car the following day. That night a fire destroys the rental building and all the vehicles inside are destroyed. It is discovered later that the rental company has set the premises alight in an attempt to submit a fraudulent insurance claim. This form of breach of contract is known as:
- A Mora debitoris
  - B Prevention of performance
  - C Mora creditoris
  - D Defective performance
  - E Supervening impossibility of performance (2)
- 1.10 The general rule in a contract of lease is that the lessee must:
- A. Pay the lessor by cheque
  - B. Maintain the leased property
  - C. Pay the rates and taxes on the leased property
  - D. Give the lessor something of comparable value in return
  - E. Pay the lessor in money (2)
- 1.11 In terms of Section 16 of the Labour Act 11 of 2007 the maximum hours per week expected of an employee (except security officers and emergency healthcare employees) is as follows:
- A 8 Hours per day including meal intervals
  - B 9 Hours per day including meal intervals
  - C 10 Hours per day
  - D 45 Hours per week excluding meal intervals
  - E 45 Hours per week including meal intervals (2)

- 1.12 The purpose of maternity leave in the Labour Act 7 of 2011 is to provide:
- A Job security and the payment of remuneration except basic wages
  - B No payment. Only 3 months' time off
  - C Only job security
  - D Only the payment of a basic wage
  - E Only to prevent the dismissal of the female employee during maternity leave(2)

- 1.13 "Night work" is any work performed between the following hours:
- A 20h00 and 7h00
  - B 18h00 and 7h00
  - C 19h00 and 7h00
  - D 20h00 and 8h00
  - E 18h00 and 6h00 (2)

- 1.14 Overtime payment and "night work" payment is based on:
- A Hourly Basic wage
  - B Monthly Basic wage
  - C Daily basic wage
  - D Remuneration
  - E Monetary Remuneration (2)

- 1.15 In the case of carriage for a reward the main obligation of the passenger is:
- A To pay compensation
  - B To pay a fare to the carrier
  - C To provide personal details
  - D To provide his\her passport
  - E To be vaccinated (2)

**[30]**

**QUESTION 2 CONTINUES ON THE NEXT PAGE**

## QUESTION 2

Decide in each of the following instances whether the statement is true or false and give a reason for your answer.

- 2.1 A contract that was induced by a false statement made negligently is fraudulent misrepresentation. (2)
- 2.2 An original offer will be valid when an offeree accepts conditionally. (2)
- 2.3 A contract that was induced by duress or undue influence is voidable. (2)
- 2.4 One of the requirements for a valid contract is physical possibility of performance. We are referring to objective impossibility of performance. (2)
- 2.5 An advertisement coupled with a reward is a valid offer. (2)

[10]

## QUESTION 3

For a contract to be binding and the obligations enforceable by a court of Law, the contract must be valid. State the five requirements for a valid contract.

[10]

## QUESTION 4

Consider each of the following examples where consensus was not reached between the parties. State the reason in each case.

- 4.1 Frieda makes an offer to John to sell her computer to him for N\$3 000. Peter accepts this offer. (2)
- 4.2 James offers his car for sale to Ann. She accepts on condition that he must have four new tyres fitted for delivery. (2)
- 4.3 Susan offered her car for sale to Simon for N\$10 000. Simon says that he'll buy it for N\$8 000. (2)
- 4.4 Jakes specified in his offer that Donald must respond on or before 15<sup>th</sup> March 2022. Donald accepts the offer on the 16<sup>th</sup> of March 2022 (2)
- 4.5 Aaron inspects several motor vehicles that are for sale. All the vehicles belong to Bert. Aaron decides to buy the 2016 Ford that he has test-driven. He says to Bert, "I offer to pay N\$80 000 for the Ford". He is not aware that Bert has five Fords for sale. Bert accepts the offer, but he has the 2015model in mind. (2)

[10]

### QUESTION 5

Linda buys a guest house from Sally for N\$300 000. Sally remains in the house until the house is registered in Linda's name. The agreement is subject to Linda obtaining a bond from her bank to pay the purchase price. Discuss the legal position of the parties in the case where the house is struck by lightning and destroyed in the ensuing fire.

- 5.1 Before Linda has obtained the finance (7)
- 5.2 After Linda obtained the finance, but before the transfer of the property has taken place. (3)
- [10]

### QUESTION 6

Mr. Shakela buys a Land Cruiser from African Cars, a dealer in used cars, for a very high price. While travelling from Windhoek to his guest farm near Otjiwarongo, Shakela had to go through a roadblock set up by the Police between Windhoek and Otjiwarongo. The Police then informed him that this Land Cruiser was reported stolen and that they must confiscate this car. Answer the following questions:

- 6.1 What are the essential elements required to enter into a valid contract of purchase and sale? (3)
- 6.2 What steps must Shakela take to protect himself when threatened by confiscation? (3)
- 6.3 On what ground can Shakela claim compensation from the dealer if the Police confiscate the Land Cruiser? (1)
- 6.4 Define this ground briefly. (3)
- [10]

### QUESTION 7

- 7.1 The lessee of immovable property is protected by the rule "*huur gaat voor koop*" (hire goes before sale). Explain this rule briefly. (2)
- 7.2 Under which circumstances will lessee in a long-term lease (ten years and more) be protected for the full term of the lease? (5)
- 7.3 Define a contract of lease. (3)
- [10]

**QUESTION 8**

What does the term "ticket case" mean? Explain briefly

**[10]**

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**TOTAL [100]**