



**NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY**

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

<b>QUALIFICATIONS:</b> HOSPITALITY AND TOURISM	
<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> NOVEMBER 2022	<b>PAPER:</b> THEORY AND CASE STUDIES
<b>DURATION:</b> 2 HOURS	<b>MARKS:</b> 100

<b>EXAMINATION NOVEMBER 2022</b>	
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<b>MODERATOR</b>	Ms M Hanekom

<b>INSTRUCTIONS</b>
<ol style="list-style-type: none"><li>1. The paper has 8 main questions.</li><li>2. This paper consists of 11 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>

## 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. Negative marking will not be applied but answers to questions will not be marked where more than one answer has been given.

1.1 The most important law in Namibia is:

- A. Common law
- B. Legislation
- C. The Constitution of the Republic of Namibia of 1990
- D. Judicial precedents
- E. Customary Law (2)

1.2 The jurisdiction of a court is:

- A. The authority to punish an accused for a crime.
- B. To maintain peace and order within a specified community.
- C. The authority it has to decide cases presented before it.
- D. Determined by the seniority of the presiding officer.
- E. None of the above. (2)

1.3 Which statement is true in regard to offer and acceptance in our law?

- A. An ordinary revocable offer may in general and in the absence of indications in its terms or in relevant circumstances to the contrary, be accepted only by the person to whom it is made.
- B. An offer is revoked by the death of the offeror or offeree or by a counteroffer.
- C. Offer and acceptance must be communicated.
- D. All of the above.
- E. Neither one of the above options. (2)

1.4 A mistake regarding motive renders a contract:

- A. Valid
- B. Void
- C. Terminated
- D. Breached
- E. None of the above (2)

1.5 With regards to mistake and representation:

- A. Misrepresentation renders a contract voidable whereas a material, reasonable mistake renders a contract void.
- B. Misrepresentation renders a contract void whereas a material, reasonable mistake renders a contract voidable.
- C. Both misrepresentation and a material, reasonable mistake render a contract voidable.
- D. Both misrepresentation and a material, reasonable mistake render a contract void.
- E. None of the above options. (2)

- 1.6 A and B conclude a contract in terms of which A sells his jet ski to B for R 15 000. The contract states that B must pay the purchase price in full by no later than 10 April 2021. By 11 April 2021 B still hasn't paid. This form of breach is known as:
- A. Defective performance
  - B. *Mora debitoris*
  - C. Prevention of performance
  - D. Repudiation
  - E. Cancellation (2)
- 1.7 The risk, which passes to the buyer when the contract is *perfecta*, is the risk of:
- A. Negligent damages or losses
  - B. Accidental damages or losses
  - C. Loss or damages caused by the seller
  - D. Loss or damages caused by the purchaser
  - E. None of the above (2)
- 1.8 Merchants and manufacturers bear a greater burden in terms of the guarantee against latent defects, because:
- A. A purchaser is always entitled to institute the remedies of *actio redhibitoria* (cancellation) or *actio quanti minoris* (price reduction)
  - B. A purchaser is always entitled to claim for consequential damages caused to the latter by means of any latent defects unless s/he has expressly or impliedly contracted out of it.
  - C. Goods they sell or manufacture may not be sold *voetstoots* (as it stands)
  - D. Goods they sell are always sold at a sale in execution.
  - E. Latent defects in the goods they sell are always not known to the purchaser (2)
- 1.9 When a seller delivers the thing sold to the purchaser, the purchaser is protected against disturbance in his possession by virtue of:
- A. Guarantee against latent defects
  - B. Passing of the risk rule
  - C. Claim for damages
  - D. Guarantee against eviction
  - E. None of the above (2)
- 1.10 In terms of the Labour Act 11 of 2007 an employee is entitled to the following number of sick leave days in a 3 year cycle if s/he works 6 days a week:
- A. 24 consecutive days
  - B. 30 calendar days
  - C. 30 working days
  - D. 36 working days
  - E. None of the above (2)

1.11 Section 33 of the Labour Act 11 of 2007 stipulates that dismissal must take place:

- A. In accordance with Section 47 of the Labour Act 6 of 1992
  - B. For a fair and valid reason and according to a fair procedure
  - C. If an employee is caught in the act of stealing from the employer
  - D. If the illness of an employee takes place for an unreasonably long period
  - E. Neither one of the above options
- (2)

1.12 In the context of a contract of employment, the doctrine of vicarious liability prescribes that:

- A. The employer is under certain circumstances liable towards third parties for the delicts committed by the employee and the independent contractor.
- B. The employer is liable to ensure the safety of the employee by taking precautions against accidents that are reasonably foreseeable.
- C. The employer is liable towards third parties for the delicts of the employee where an employer/employee relationship exists, if such delict was committed in the course and scope of his/her duties, and towards the promotion of the interests of the employer.
- D. The employer is liable towards third parties for the delicts of the employee if such delict was committed in the course and scope of his/her duties and towards the promotion of the interests of the employer, except where the employer has expressly forbidden him/her to do so.
- E. The employer is liable towards third parties for the delicts of the employee if such delict was committed in the course and scope of his/her duties and towards the promotion of the interests of the employer, except where the delict was committed after hours.

(2)

1.13 A building contractor builds a wall for Jeremy. Before the wall is completed a river in the vicinity floods and the wall is swept away. The contractor has no control over this flooding. Who will bear the risk?

- A. The building contractor
  - B. Jeremy
  - C. Jeremy and building contractor will share the damage.
  - D. The person on whose property the river runs.
  - E. The contract will terminate.
- (2)

1.14 When a debtor intentionally or negligently does something, which makes performance absolutely impossible, this is known as:

- A. Supervening impossibility of performance
  - B. Objective impossibility of performance
  - C. Subjective impossibility of performance
  - D. Prevention of performance
  - E. None of the above
- (2)

- 1.15 In terms of the Labour Act 11 of 2007 an employee is entitled to five (5) working days compassionate leave during each period of twelve months for the death or serious illness of family. Which of the following persons will **not** be considered as family for compassionate leave in terms of the Labour Act?
- A. Children including adopted children.
  - B. Adopted children.
  - C. Grandparents
  - D. Father/Mother in Law
  - E. Brother in law /Sister in Law (2)
- 1.16 The *essentialia* of a contract of employment are:
- A. Nature of service, remuneration and safe working conditions.
  - B. Nature of service and remuneration.
  - C. Nature of service, remuneration and subordination to the employer.
  - D. The employer has authority and control over the employee and will prescribe what, how and when the work should be done.
  - E. Nature of service, remuneration and employer will provide the tools to enable the employee to render the service. (2)
- 1.17 One of the requirements for the transfer of ownership when a contract of sale has been entered into, is (indicate the **correct** statement):
- A. That the thing must be free from latent defects.
  - B. The actual delivery must take place.
  - C. That the purchase price must be paid in cash.
  - D. That the seller must give the purchaser a warranty against eviction.
  - E. That the intention exists that ownership should pass. (2)
- 1.18 Which of the following statements is **false** in relation to a contract of sale?
- A. A seller need not guarantee that he is the owner of the things sold but needs to provide the purchaser with a warranty that he will receive the thing free from encumbrances.
  - B. An implied warranty against eviction guarantees that no third party with a better title will deprive the purchaser of his possession of the thing.
  - C. Where both the seller and buyer believe a thing to be sold exists, but it later transpires that the thing does not, a valid contract is nevertheless concluded.
  - D. There cannot be a valid contract of sale if the parties concerned do not reach agreement about the price.
  - E. None of the above options. (2)

- 1.19 A lease may be renewed by agreement between the parties. An express agreement to relet the property concluded during or upon the expiration of the lease is called:
- A. Conventional Relocation
  - B. Tacit Relocation
  - C. Hire goes before sale
  - D. Landlord's tacit hypothec
  - E. None of the above
- (2)

- 1.20 The Warsaw Convention applies to:
- A. Domestic carriage of baggage
  - B. Domestic carriage of passengers
  - C. Only international carriage
  - D. Baggage other than that taken by the passenger inside the cabin
  - E. All of the above
- (2)

**[40]**

## QUESTION 2

**Identify the legal concept/contractual term for each of the following:**

- 2.1 Moses specified in his offer that John must respond on or before the 15<sup>th</sup> of March 2021. John accepts the offer on the 17<sup>th</sup> of March 2021. (2)
- 2.2 An agreement that restricts the liberty of one or both of the parties to engage in one or more specified commercial activities for a specified period and/or within a specified geographical area. (2)
- 2.3 Where parties entered into an unlawful agreement, the contract is void and neither party can institute a claim on the basis of unjust enrichment. (2)
- 2.4 Sally owes Joe N\$ 400. Joe says that Sally no longer needs to repay him. Sally accepts this offer. (2)
- 2.5 The payment made by the purchaser to the Receiver of Inland Revenue on the value of land and fixtures sold. (2)

**[10]**

**QUESTION 3 FOLLOWS ON THE NEXT PAGE**

### QUESTION 3

Identify the type of breach of contract that was committed in each of the following instances.

- 3.1 Lavinia lets a flat to Robert. In the written lease agreement Robert undertakes not to sublet the flat to someone else and to give a month's notice if he wishes to vacate the flat. Robert, however, unexpectedly receives a good job offer in New York and needs to start working within 48 hours. (2)
- 3.2 Penny entered into an agreement with Hank, a builder, for a second garage to be built at her residence. Two days before the project would have commenced, Hank calls Penny saying that he is very sorry, but he does not have time to perform the work. (2)
- 3.3 The wholesaler is supposed to deliver 100 bags of cake flour but delivers 100 bags of self-raising flour instead. (2)
- 3.4 Ruben enters into a contract of purchase and sale with Festus in terms whereof he buys a second-hand refrigerator from Festus for N\$ 1000. The parties agree that the payment price will be paid within 24 hours of delivery. The refrigerator is delivered on the 5<sup>th</sup> of April 2021. Suppose today is the 8<sup>th</sup> of May 2021 and the purchase price has not been paid as yet. (2)
- 3.5 Simon acquired a job as a salesman at Dial-a-Bed (Pty) Ltd. Two days before he was supposed to assume duty, he departs to London to work as security guard for two years. (2)
- [10]**

### QUESTION 4

Max sells his plot to Johnny. When Johnny made the offer to purchase the land, he made it clear that he wanted to buy the property to cultivate flowers and that he would need sufficient water for this purpose. Although Max knew that this was untrue, he told Johnny that there was plenty of underground water, as well as municipal water. When Johnny takes possession of the property, he finds out that there is very little water on the property. What is Johnny's legal position?

**[5]**

**QUESTION 3 FOLLOWS ON THE NEXT PAGE**

### QUESTION 5

S is the owner of 2010 VW Golf. After a standard service, S is informed by the mechanic that the car's rings are damaged. The costs of repairing these will amount to N\$10 000.00. Outwardly the car is fine; the performance is good and not too much smoke is emitted by the engine. S decides that the time has come to sell the car. After inquiries he finds out that this make and model of car is sold for N\$ 15 000 in the trade. **Answer the following questions:**

- 5.1 Name the obligation of the seller that is relevant in this scenario. (2)
- 5.2 Name the requirements to be proven by the buyer in order to be successful in a claim against the seller for breach of this obligation in (5.1). (5)
- 5.3. What is meant by a "voetstoots" sale? (3)
- [10]**

### QUESTION 6

- 6.1 Name the essential characteristics of a contract of lease. (3)
- 6.2 The lessee has certain duties automatically incorporated into a contract of lease. Name these duties. (4)
- 6.3 The lessee of immovable property is protected by the rule "hire goes before sale" (huur gaat voor koop"). What is the purpose of this rule? (2)
- 6.4 A short term lease is a lease for which period? (1)
- [10]**

### QUESTION 7

Lazarus was a lorry driver in the employment of Speedy Services CC. While performing his duties, he stopped at a filling station for fuel, lit a cigarette, which caused a fire in which a pump attendant was injured. Discuss whether the employer could be held liable for the damage to the fuel station and the injuries sustained by the pump attendant.

**[5]**

**QUESTION 8 FOLLOWS ON THE NEXT PAGE**



**QUESTION 8**

- 8.1 Name any five (5) functions of the Namibian Tourism Board in terms of the Namibia Tourism Board Act 21 of 2000. (5)
- 8.2 Explain the abbreviations IATA and ICAO. (5)
- 
- [10]**

**TOTAL [100]**