

Part IV – Commercial Law

Chapter 30 Agency

1. Define agency
2. (a) Define the three categories of agent
 - (b) Does an Agent require full contractual capacity?
 - (c) Does a Principal require full capacity to contract?
3. (a) How may an agency be created?
 - (b) When may a Principal refuse to ratify a contract?
4. Outline the duties of an Agent
5. What are the duties of the Principal towards the Agent?
6. Which piece of legislation protects the rights of Commercial Agents?
7. (a) What type of authority is given to the agent by the Principal?
 - (b) What was decided in the case of *Yonge v Toynbee* (1910)
8. What rules apply to the right of an agent to sue or be sued by the third party?

Types of Agent

9. There are at least five important types of agent. Name these relationships

Termination of Agency

10. How may an agency be terminated?

Chapter 31 Sale of Goods

Sale of Goods Act 1979

11. List the main legislation following from the Sale of Goods Act 1893 designed to protect consumers
12. Which piece of legislation implemented the 1999 EC Directive on the Sale of Goods and Associated Guarantees?
13. (a) What is meant by '*goods*' under the legislation?

- (b) Which types of goods does the legislation distinguish?
- (c) Who cannot contract under the legislation by reason of '*capacity*'?
- 14. What legislation governs '*exemption clauses*'?
- 15. Distinguish between (a) a condition and (b) a warranty
- 16. What was the decision of the Court in *Hong Kong Fir Shipping v Kawasaki Kisen Kaisha* (1962)?
- 17. Which case determined an '*intermediate term*' in a contract?
- 18. What is the effect of S 12(1) of the legislation?
- 19. Which Section of the Act implies a *warranty* that goods are free from any encumbrance?
- 20. S 14(1) provides for the maxim '*caveat emptor*'. What is meant by this term?
- 21 (a) What term replaces '*merchantable quality*' in the Act?

(b) S 1 Sale & Supply of Goods Act 1994 inserts a new S 14(2) into the 1979 Act. What terms are '*implied*' by this section?
- 22. In *Shine v General Guarantee Finance* (1988) what term did the Court use for the 20-month-old second hand car?
- 23. Where in the legislation is the implied *condition* that goods sold in the course of business are reasonably fit for that purpose
- 24. In which case did the CA hold that the relationship between S 14(2) and S 14(3) were well illustrated?
- 25. S 13 and S15 relate to sale by sample. What implied conditions are covered by these sections?
- 26. What is meant by the term '*nemo dat quod non habet*'?
- 27. What section of the Act enables this common law rule?
- 28. What are the two general exceptions to the rule?
- 29. Name the other exceptions to this rule apart from S 21?
- 30. Lord Denning in *Bishopsgate Motor Finance v Transport Brakes* summed up the reasons for the general rule and its exceptions. Paraphrase what he said.
- 31. Under performance of contract what is meant by '*delivery*'?

32. What do the following sections of the Act relate to? (a) S 29 (b) S 30 and (c) S 31?
33. Which Section of the Act describes 'Acceptance of Goods'?

Remedies

34. What is meant by a lien on goods?
35. What sections of the Act describe a stoppage in transit?
36. What are the exceptions to the re-sale of goods under S 48?
37. Repossession of goods under liquidation or receivership was discussed in which case?
38. Which remedies are enforced against the buyer?
39. When may the buyer sue?
40. Under the Powers of Criminal Courts (Sentencing) Act 2000 what penalties can a Magistrates Court and a Crown Court make against a trader?

Auction Sales

- 41 (a) Name the legislation and the specific governing auctions. (b) When is the sale complete?
42. What is meant by a reserve price?

The supply of Goods and Services Act 1982 (SGSA)

- 43 (a) How many parts are there to the SGSA 1982?
- (b) What does Part 1 of the Act apply to?
44. What do Ss 2-5 provide for?
45. What did the 1981 National Consumer Council Report entitled '*Service Please*' concern?
- 46 (a) What was the purpose of Part 11 of the Act?
- (b) What does this part of the Act apply to?
47. What are the implied terms covered by S s 13 -15 regarding suppliers?
48. What does S 7 UCTA 1977 (as amended) deal with?

49. Which test case (*supported by the Consumers Association*) has shown that it is becoming more difficult for a trader to exclude liability for negligence when he deals with a consumer?

Chapter 32 Competition Policy

50. Which legislation regulates 'fair competition' among producers and suppliers?
51. Which Articles in the Treaty of Rome regulate matters of competition between Member States?
52. Which two conditions must be satisfied for a successful claim under Article 81 to lie especially in view of the decision in *Crehan v Inntrpreneur Pub Company (IPC) and Brewman Group Limited (B)* (2003?)
53. Was the claimant successful in the *Crehan* case?
54. Which piece of legislation mirrors Articles 81 and 82?
55. What is the role of the Competition Commission and to whom does it report?
56. The Enterprise Act 2002 introduced a number of changes to UK competition law. What were they?

Chapter 33 Consumer Credit

57. What is the purpose of the Consumer Credit Act 1974 (as amended) by the Consumer Credit Act 2006?
58. With whom does responsibility for the operation of the Act rest and what are their duties.
59. What is a consumer credit agreement?
60. What is a credit-token agreement?
61. What is a consumer hire agreement?
62. What was the decision of the HL in the case of *Diamond v Lovell* (2000)?
63. What is a hire purchase (HP) agreement?
64. Describe the role of the Finance Company in a hire purchase agreement.
65. Which legislation imposes obligations in relation to hp relating to title, description, quality and fitness for purpose and sample of goods?

66. Which legislation imposes restrictions on the use of exemption clauses in hp agreements?
67. In which case did the dealer tell a potential customer “*It’s a good little bus, I would stake my life on it*”?
68. What are the obligations of a debtor in an HP agreement?
69. Define an HP conditional sale and credit sale agreement
70. From whom is a license obtained in a consumer credit/hire business?
71. What was the decision in *Metsoja v Norman Pitt* (1989)?
72. What information must be disclosed to ensure the debtor is aware of his rights, duties and the protection and remedies available to him under the Act?
73. A debtor’s right to cancel a regulated agreement was extended by which piece of legislation?
74. What types of agreement are exempt from the Regulations?
75. There are at least six other matters which may arise during the period of consumer credit. Can you name these?
76. What must be specified in a default notice?
77. What notice is required to terminate a consumer hire agreement?
78. In what court are proceedings brought in relation to judicial control over the provisions of the Act?
79. Name the three Orders that a Court may grant
80. What test is provided for in Ss 19-22 of the Consumer Credit Act 2006?
81. Which EC Directive could provide for fairness in Consumer Credit?
82. What is the effect of the Late Payment of Commercial Debts (Interest) Act 1998?
83. Define (a) a small business (b) a large business

Chapter 34 Insurance

84. Define ‘Insurance’
85. What is meant by the term ‘*uberrimae fidei*’?

86. In the case of *London Assurance v Mansel* (1879) what did the D fail to disclose?
87. What is meant by insurable interest?
88. What is an indemnity policy?
89. What is meant by subrogation?
90. What is meant by life assurance?
91. What are the rules relating to the insured person committing suicide?
92. What was the decision in *Macaura v Northern Assurance Co* (1925)?
93. Which legislation relates to Motor Vehicle Insurance?
94. What is the purpose and role of the Motor Insurance Bureau (MIB)?
95. When was the MIB established?
96. What can not be claimed under a liability policy?
97. What is the purpose of the Employers' Liability (Compulsory Insurance) Act 1969?

Chapter 35 Patents, Copyright, Trade Marks and Passing Off

98. What does the economic tort of [assign off prevent?
99. What is not protected by a new property right known as a design right?
100. When does the design expire?
101. What remedies are available for infringement of design rights?
102. Define a Patent
103. What is the process involved in the application to register a patent?
104. What is the length of time in which one can lodge an objection to a patent?
105. How long is a patent in force?
106. Describe the renewal and extension procedure.
107. How is the grant of a national patent achieved?

108. The Patents Act 1977 is silent on what is patentable. What is not patentable?
109. What right is afforded to an employee re their inventions?
110. Describe the following (a) patent (b) assignment (c) Licensing?
111. How may a person infringe a patent?
112. What relief is available when a patent is infringed?
113. Which group of business personnel did the legislators have in mind when enacting the Patents Act 2004?
114. Define copyright
115. How is copyright acquired?
116. Which works are eligible for copyright?
117. What is a computer programme treated as under the Act?
118. What rights are protected under artistic works?
119. Are engineering productions entitled to copyright?
120. What is the duration of copyright?
121. What are the rights of the copyright owner?
122. What is known as the moral rights of an author?
123. What is indirect copying?
124. What artistic rights are restricted to copyright?
125. Is there any copyright in a name?
126. How does infringement occur?
127. What remedies are available for the infringement of copyright?
128. In what way does the Copyright and Related Rights Regulations 2003 help the music and film industries?
129. What is a Licensing scheme?
130. Which disputes may be referred to the Tribunal?
131. Which performers are protected under the legislation?

- 132. What is the extent of the rights?
- 133. What is a trade mark?
- 134. Describe a Community Trade Mark
- 135. Define the tort of '*passing off*'
- 136. What equitable relief did the Court grant in *Asprey & Garrard Ltd v WRA (Guns) Ltd* (2002)?
- 137. Describe at least four different methods of the tort of passing off considered by the courts.
- 138. Which remedies are available in the tort of passing off?

Chapter 36 The Data Protection Act 1998

- 139. What is the purpose of the Data Protection Act 1998?
- 140. How is data defined under the Act?
- 141. How are '*specific persons*' defined under the Act?
- 142. What rights are conferred under S 7 of the Act?
- 143. What must an individual do to obtain right of access to this personal data?
- 144. What is the period of notice required in regard to a reconsideration of this decision?
- 145. What can a data subject apply to the court for in relation to inaccurate personal data?
- 146. What principles are laid down by the Act in relation to the governing of personal data processing?
- 147. What is '*sensitive personal data*'?
- 148. State the exemptions from the data protection principles.
- 149. In the case of *Halford v UK* (1997) what did the ECHR state in relation to a violation of Article 8?
- 150. What legislation protects the privacy of employees' e-mails?
- 151. What can a Commissioner do if he/she feels there is/about to be a contravention of data protection principles?

- 152. What does the Freedom of Information Act 2000 require of public authorities?
- 153. If an individual requests information within what time frame must a public authority make this available?
- 154. What is a public authority?
- 155. What are the powers of the Commissioner?

Chapter 37 Regulatory Bodies

- 156. What is the Financial Services Act 1986 (FSA) concerned with?
- 157. What is the name of the Agency established under the FSA?
- 158. By whom are the following regulated (1) Banks (2) Insurance Companies (3) Building Societies?
- 159. What is the basic principle underlying investment?
- 160. What is an investment under the Act?
- 161. What does an Investment Business include?
- 162. Which activities are excluded?

The Securities and Investments Board (SIB)

- 163. When did the SIB come into existence?
- 164. What is the SIB?
- 165. Which powers have been delegated to the SIB?
- 166. To whom does the SIB report annually?
- 167. What is the constitution of the SIB?
- 168. What is the aim of the SIB?
- 169. What is the power of sanction conferred on the SIB?
- 170. What did the Court of Appeal hold in *Securities and Investments Board v Pantell S.A.* (1992) in relation to S6 FSA 1986?
- 171. What is the 'Central Register'?
- 172. What information is contained in the central register?

- 173. How may the public access the central register?
- 174. Name the '*rules*' which regulate investment businesses?
- 175. What is the number of rules regarded as the most important?
- 176. What are the four Self-Regulating Organisations?
- 177. What are the Recognised Professional Bodies?
- 178. What is a Recognised Investment Exchange (RIE)?
- 179. What requirements must an RIE satisfy to obtain recognition by the SIB?
- 180. What do RIE's include?
- 181. What conditions must be satisfied before compensation is available for an investor?
- 182. When is the compensation scheme not available?
- 183. What is the maximum compensation payable to an individual?
- 184. How is the scheme funded?

Financial Self-Regulation

- 185. What is the Financial Reporting Council (FRC)?
- 186. How is the funding for the FRC acquired?
- 187. How is the FRC managed?
- 188. How often does the FRC meet?
- 189. What are the main purposes of the FRC?
- 190. When was the first report of the FRC published?
- 191. What is the ASB?
- 192. What is the Urgent Issues Task Force?
- 193. Describe the membership of the ASB
- 194. What is the FRPB?

- 195. How does the FRRP consider a case?
- 196. How are the appointments to the FRRP made?

The Stock Exchange

- 197. When did the Stock Market crash?
- 198. Why did the Government take the Stock Exchange to the Restrictive Practices Court?
- 199. Describe what was commonly known as the '*Big Bang*' of 27 October 1986?
- 200. What is the SEAQ?
- 201. Describe the ways in which shares in public companies may be purchased
- 202. Describe the various services that stockbrokers can provide
- 203. What does a Stock Broker advise on?
- 204. How is a Stock Brokers payment calculated?
- 205. What is Capital gains tax?
- 206. How does capital gains tax arise?