



**Association of Accounting Technicians of Sri Lanka**

**July 2020 Examination – Level II**

**Suggested Answers (203)**

**(203) BUSINESS LAW**

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**THE ASSOCIATION OF ACCOUNTING TECHNICIANS OF SRI LANKA**

**Level II Examination-July 2020**

**(203) BUSINESS LAW**

**SUGGESTED ANSWERS**

**Fifteen (15) Compulsory Questions  
(Total 25 Marks)**

**SECTION - A**

*Suggested Answers to Question One:*

<b>Question</b>	<b>Answer</b>
1.1	3
1.2	4
1.3	2
1.4	3
1.5	2
1.6	4

*(02 marks each, Total 12 marks)*

1.7	True
1.8	True
1.9	False

*(01 mark each, Total 03 marks)*

1.10

*Any two (2) of the followings*

- Conducting discussions with the investors on project proposals
- Accepting voluntary projects and reviewing and also forwarding them to the respective government institutions to take the necessary steps.
- Providing special advisory assistance and preparing relevant documents
- Providing tax and other reliefs
- Marketing infra-structure projects to future investors

1.11

- Action against the goods not delivered
- Specific Performance
- Right to rejection of goods for breach of conditions
- Right to claim damages for breach of warranties
- Recovery of the price

1.12

*Any two (2) of the followings*

- On termination of employment
- On retirement in due age
- On dismissal from the employment(On removal from office)
- On resignation from the employment
- On change of employment

1.13

*Any two (2) of the followings*

- Specifications to identify goods
- Quantity, size and weight of goods
- Quality of goods
- Name and address of the receiver
- Name and address of the shipper
- PO/Invoice numbers
- The date of the pickup

1.14

*Any two (2) of the followings*

- To protect consumers against the marketing of goods or providing services, which are harmful to life and property of consumers.
- To protect consumers against unfair trade practices, and guarantee that consumers interest shall be given due attention.
- To ensure that wherever possible, consumers have sufficient access to goods and services at competitive prices.
- To seek damages against unfair trade practices, restrictive trade practices or any other form of manipulation of consumers by traders.

**(02 marks each, Total 10 Marks)**  
**(Total 25 marks)**

**End of Section A**

*Suggested Answers to Question Two:*

a) Chapter 05 - Partnership Law

According to the provisions laid down in the **Section 30 of the partnership ordinance**, There is a **duty of every partner not to compete with the partnership by carrying on a business of the same nature and competing with that of the firm** without the consent of other partners. Any partner in a partnership during the existence of the partnership or even after leaving the partnership should not engage any business competing with the partnership. Any profit earned by engaging in a competing business will be considered as profits earned by the partnership. If a partner without the consent of the other partners, carries on any business of the same nature and competing with the firm, he must pay over to the firm all profit made by him in that business.

Aforesaid legal duty of partners' is also explained in the decided case;

**Pillan Bros v Pillan Bros**

In this case, there was a partnership between three brothers, one acquired a rival business of a similar nature. The court held that the profit of the rival business should be shared between the other two partners.

In the given scenario also **Sumana** has started a similar business with her husband using contacts from "**Helarasa**" without any consent from **Nimal and Raja**.

As mentioned in the case law above, the obvious remedy for **Sumana** in this case seems to be to account to the firm the profit so made from the rival business. Hence, she breached duties of a partner. **Sumana** should pay over all the profits she made from the new business carried out with her husband to the partnership with **Nimal and Raja**.

b)

According to the **section 05 of the Partnership Ordinance**, **every partner is an agent of the firm and his other partners** within the scope of the partnership. A partner who acts within the scope of his actual authority (express or implied) will bind the partnership. And a partner has implied authority to bind the partnership when he does anything which would be usual in the course of carrying on partnership business.

If one partner entered into a contract with a third party using his or her actual authority or implied authority, other partners also will be bound by the same contract. The important point to be highlighted here is that, even if the other partners were not aware or without their consent any contract was made by a one partner in his capacity as a partner of the said partnership, the contract he made with the third party is binding in the entire partnership.

**Mercantile Credit Co. Ltd v Garrod , Samuel Gnanam And Others v Ismail Lebbe and Golberg V Jenkins** are few decided cases which explained aforesaid legal principal.

In the matter of Samuel Gnanam And Others v Ismail Lebbe, four partners who operated a partnership entered into a contract with a company for distributions of goods and the contract was signed by only few partners. The partnership filed an action against the company for breach of contract and company argued that partnership cannot maintain the action, as all partners have not signed the contract. However, the court decided that other partners have the right to file an action to recover debts even for a contract made by any partner with a third party.

In applying the above principles to the given scenario, it seems clear that firm and every partner of the “Healarasa” is bound by the agreement made by **Nimal** on behalf of the firm with **Piyal** to buy cinnamon and pepper in the ordinary course of the business. Therefore the firm, **Raja** and **Sumana** Obligated to pay sum of Rs 500,000 to **Piyal**.

It should be noted further that the firm has a right to claim sum of Rs 600,000 from **Nimal**.

(04 marks)  
(Total 10 marks)

***Suggested Answers to Question Three:***

***Chapter 04 – Law of Agency***

- a) According to the given facts it seems that **Kumudu** appointed **Malaka** as her agent **expressly** by a contract but not by a way of Power of Attorney. Therefore **Malaka** is empowered to enter in to contract on behalf of **Kumudu** in writing as well as verbally. But **Malaka** is not empowered to execute deeds on behalf of **Kumudu**.

Further it should be noted that this agency relationship by expression would lead to agency relationship by implied agency and agency by necessity with the situational factors.

(04 marks)

- b) i)

As per the law of Agency, an agency can be created by necessity where the agent has acted without prior approval of the principal and has done so by necessity in an emergency the principal is liable for the agent’s action.

Following conditions should be satisfied before an “agency by necessity” is created

- There was so emergency situation that instructions cannot be procured from the Principal
- There was an actual commercial necessity to act so.
- The Agent must have acted in good faith on behalf of the Principal
- The Agent’s action must be reasonable and prudent
- The Principal must not have given prior express instructions to the contrary

In the matter of **Great Northern Railway Company V. Swafeeld**, The concept of agency by necessity was admitted and followed by series of case laws. In that case A Railway Company was appointed to transport a bulk of tomatoes imported in a ship, from the harbor to the business premises of S. The ship containing the tomatoes arrived the port after lapse of several days. Since the tomatoes were fast perishing, the railway company sold them at a lower price. An action was instituted by S against the railway company to recover damages. The Court held that, as the railway company had known the place of aboard of S , the best course of action would be to seek instructions from S . Thus, an agency by necessity had not arisen and Railway company was liable to compensate S of the loss he had suffered.

In the given scenario, there was a sudden damage on the water pipeline at the business premises. Therefore **Malaka**, hired **Podi Bass** to repair the pipeline. By analyzing the facts in the given scenario it seems that due to the sudden damage on the pipe line, actual commercial emergency arose and **Malaka** acted reasonably and prudently in good faith on behalf of the Principal. Further we can see that **Malaka** has no opportunity to communicate with his principal for instructions as quick repair should be done in damaged pipe line.

Accordingly, it's clear that there is an agency relationship by necessity between **Malaka** and **Kumudu** as all the required conditions for agency by necessity" have been satisfied.

Principal is bound by agents acts within the agency relationship. Therefore legally **Kumudu** has to pay the amount due to **Podi Boss**.

*(03 marks)*

ii)

This scenario is related to creation of agency by implication.

If a person authorizes another the power to act on his behalf or to enter in to contracts on his behalf relationship of agency arises. This authorisation can be either express or implied. This is based on the creation of agency by implication.

Agency is created by implication from the nature of the principal's business and the position of the agent within that business, the agent is deemed to have permission from the principal to undertake certain acts.

Where, the principal places his agent in position such as manager, managing director, broker, auctioneer etc. In practice, only a part of authority is given by expression. Then, the agent receives the balance authority by implication.

In such case that the principal is liable for the all of the acts of the agent within the authority usually confided to an agent of that character, notwithstanding the limitations, as between the principal and agent. Therefore any restriction to this implied authority by the principal should be communicated to third parties. If third parties are not made aware of such limitations in advance, the principal is liable on contracts entered into by the Agent exceeding such limitations.

This legal theory was explained in the matter of Watteau V Fenwick

A had employed B as the manager of Victoria Hotel with express instructions not to purchase cigarettes on credit. Despite this prohibition, B purchased cigarettes on credit from C. When C demanded payment of the sale price, A argued that B had acted outside his authority hence he was not bound by the impugned contractual obligations. The Court held that, since C had not been made aware of limitations of B's authority in advance, an agency by implication arises between A and B. Accordingly, A as the principal is liable to pay money.

Based on the given facts it seems that, Restrictions on **Malaka** not to sell ebony timber by the principal was not communicated to the third parties. Therefore agency by implication exists and **Renuka** could claim compensation form the principal, **Kumudu**.

(03 marks)  
(Total 10 marks)

***Suggested Answers to Question Four:***

***Chapter 08 – Law of Insurance, Hire Purchase and Leasing***

- a) This is related to the fundamental principles of insurance.

The doctrine of contribution arose in the case of double insurance of property where all insurers must share the burden of payment in proportion to the amount assured by each insurance company.

Calculation of compensation according to the principle of contribution is as followed

Compensation =  $\frac{\text{Value of the insurance policy issued by particular insurance Company}}{\text{Value of the insurance policies issued by insurance Companies}} \times \text{Loss occurred}$

$$\begin{aligned}\text{Compensation XYZ Company} &= \frac{3,000}{7,000} \times 500 \\ &= \underline{\underline{214,285}}\end{aligned}$$

$$\begin{aligned}\text{Compensation ABC Company} &= \frac{4,000}{7,000} \times 500 \\ &= \underline{\underline{285,715}}\end{aligned}$$

Accordingly Anne is not entitled to claim Rs 500,000 each from the both insurance companies. However she is entitled to claim total of Rs 500,000 from both insurance companies proportionately Rs 214,287 from ABC insurance company and Rs 285,714.00 from XYZ insurance company.

(06 marks)

**b) Obligations of hirer**

- He has to comply with the hire purchase agreement. It is the primary obligation.
- He has to take care of the goods.
- He has to inform the location and position of the goods to the owner.
- He should not cheat or defraud the owner of the goods by fraudulent sale or disposal of goods.
- He should not compensate the owner for any damage caused due to non-use of the goods.

**Obligations of the owner**

- The owner is obliged to supply copies and information of the goods to the hirer

**(04 marks)**  
**(Total 10 marks)**

***Suggested Answers to Question Five:***

**a)**

***Chapter 08 – Laws relating to Negotiable Instruments***

- i. According to section 76 (1) and 76 (2) of the Bills of Exchange Ordinance, two parallel transverse lines with or without the words, or by mentioning a name of a bank written on a face of a cheque, a cheque can be crossed.

The crossing of a cheque influences the way by which the payments are made with regard to that cheque. A holder of a crossed cheque cannot take money at counter of a bank. The value on the cheque should be transferred to a bank account. Crossing is important to protect the rights of true holder of the cheque. The words 'Not Negotiable' are written between the two parallel transverse lines does not affect the basic rule of 'not to pay over the counter'.

Accordingly this cheque is not payable over the counter on presentment by the Priya.

**(04 marks)**

- ii. In following situations the bank has the power/ authority to dishonor/refuse to pay a cheque commanded by a customer,

- Notice of death or mental incapacity of the customer .
- Notice of bankruptcy of the customer or liquidation of a corporate customer.
- If the signature of the drawer is suspicious.
- The discrepancy between amount in figure and in words.
- Submission of the cheque after business hours.
- If the cheque is damaged.
- If it is postdated - if the cheque had been expired.
- If there are material alterations in the cheque.
- If the cheque is countermanded.

*Any three (3) of the above is required*

**(03 marks)**



b)

**Chapter 07 – Labour Law**

Hence, Lalitha works for a textile shop, she is covered by the provisions of Shop and Office employees Act No 19 of 1954. Accordingly she is entitled to maternity leave prescribed by the said act.

**The maternity leave entitlement applicable for the 2nd confinement is 84 days with full remuneration.** And 14 days can be taken before the delivery of the child.

However owner of Araliya Textiles refused to grant her paid maternity leave and terminated her job due to confinement.

Shop and Office employees Act No 19 of 1954 prescribed that No employee's employment can be terminated due to the reason of confinement. Therefore we can come to a conclusion that owner of Araliya Textiles breached the Shop and Office employees Act.

According to the Section 5 of the Termination of Employment of Employees (Special Provisions) Act this termination can be considered as a void termination of employment and Lalitha can claim compensation against her termination or ask for reinstatement.

**(03 marks)**  
**(Total 10 marks)**

***Suggested Answers to Question Six:***

a)

**Chapter 10 – Offences Related to the Business Environment**

*Any three (3) of the followings*

- Mandate/Account Opening form.
- Copy of identification document.
- Copy of address verification documents.
- Copy of the valid visa/permit in the case of RNNFC/NRRA/RGFC accounts for non-nationals.
- Copy of the business registration if the account is opened for such purpose

**(03 marks)**

b)

**Chapter 10 – Offences Related to the Business Environment**

i) As per the Money Laundering Act “unlawful activity” means any act which constitutes and offence under

- The Poisons, Opium and Dangerous Drugs Ordinance
- Any law or regulation for the time being in force relating to the prevention and suppression of terrorism
- The Bribery Act (Chapter 26)
- The Firearms Ordinance, the Explosives Ordinance or the Offensive Weapons Act,
- Any law for the time being in force relating to transnational organized crime
- Any law for the time being in force relating to cyber crimes
- Any law for the time being in force relating to offences against children
- An offence under any other law for the time being in force which is punishable by death or with imprisonment for a term of seven years or more by death or imprisonment
- Pyramid scams

**(04 marks)**

ii)

Following acts are identified as offences under the Computer Crime Act No 24 of 2007.

- Unauthorized access and securing unauthorized access to a computer
- Unauthorized access to a computer to commit a crime and securing the unauthorized access of the computer to commit a crime.
- Destroying, deleting or corrupting, or adding, moving or altering any information held in any computer.
- Obtaining data from sources which are unauthorized to access by using hacking systems
- Aiding and abetting and conspiracy to engage in crimes committed by computers .

**(03 marks)**

**(Total 10 marks)**

(Total 25 Marks)

***Suggested Answers to Question Seven:***

**(A)**

**a)**

**i)**

**Chapter 2 – Contract Law**

Postal rule applies in this matter.

The general rule is that the acceptance becomes effective only after it is officially communicated to the offeror. The agreement is completed only after the acceptance is communicated to the offeror.

However **postal contracts** are exception to the general rule.

If the parties have agreed expressly or impliedly to communicate the acceptance by post, then the rule is that acceptance is complete when the letter of acceptance is posted even though the letter is delayed or lost in the post

Aforesaid theory is also known as **Adams V Lindsay** rule

In this case A offered to sell his property to B by posting a letter on September and required an answer by return post. On 5th September B posted his acceptance. Due to a delay of postal officers, the letter reached A on 9th September. However A had sold the goods to a 3rd party on 08th September. It was held that a binding contract has arisen as soon as the letter of acceptance is posted on 5th September.

In the given facts, both **Dr.Perera** and **Banda** agreed to send the acceptance or rejection by a letter via post. Hence, Postal rule applies in this case. Depending on the given facts **Banda** has posted the letter of acceptance on 18<sup>th</sup> February. **Therefore valid postal contract formed in between Dr. Perera and Banda** on the same date.

Therefore **Dr. Perera** cannot reject to purchase **Banda's** cinnamon as there is a valid acceptance to supply cinnamon by 18<sup>th</sup> February.

**Optional Case Laws**

**Ceylon University V Fernando**

**Household Fire Carriage and Accident Insurance Company V Grant**

**(04 marks)**

ii)

**Chapter 2 – Contract Law**

**The notion of unilateral Contracts applies in this matter**

The general rule is that acceptance becomes effective only after it is officially communicated to the offeror.

However **Unilateral contracts** are exception to the general rule.

If the offeror gives the authority to the offeree to directly act upon on something, in such situation, the acceptance comes effective as soon as the offeree acts according to the directions given by the offeror, disregarding communication of acceptance

Sir C.J Weeramanthry explained, this notion quoting LJ Bowen in his book by questioning that whether a person who saw a notice of a lost dog should inform the owner that he is going to find his dog?. Very clearly in such a situation it is not necessary to inform that he is going to find the dog. In such a situation, the acceptance will take place mere by engaging in action of finding the dog. Such contracts are known as unilateral contracts.

Aforesaid theory is also discussed in **Carlill v Carbolic Smoke Ball Co.**

Carbolic Smoke Ball Co. offered to pay a reward of £100 to anyone who contracted influenza after using their smoke ball as prescribed. Ms. Carlill contracted influenza, even after using the smoke ball as prescribed. She claimed the reward of £100, which the company refused to pay. It was held that this was an offer made to the world at large. The fact that Ms. Carlill acted on the offer by using the smoke ball as prescribed, amounts to her accepting this offer. Therefore the company was bound to pay the £100 reward to her.

In this scenario the newspaper advertisement of **Dr. Perera** amounts to an offer made to the world at large. Such offers are made to any specific person anywhere. Therefore these offers can be accepted by anyone. Acceptance of this offer is made by merely acting on the offer, and there is no need to specifically communicate the acceptance to the offeror. Therefore in the given scenario, since a valid offer had been made by the **Dr. Perera** to **Vishaka**, and as **Vishaka** had accepted this offer by applying for hair lengthening.

Therefore valid contract was formed between **Dr.Perera** and **Vishaka**.

**(04 marks)**

b)

**Chapter 2 – Contract Law**

In the given scenario, both Dr. Perera and Banda have agreed to communicate the acceptance by post. Then the applicable law is, governing by 'acceptance by postal communication' which comes under the preview of communication of acceptance rule.

Postal rule is that acceptance is completed when the letter of acceptance is "posted" (not the time the letter received.), even though the letter is delayed or lost in the post. On 18<sup>th</sup> February, Banda posted a letter to Dr. Perera stating that he is ready to supply the said amount for the stated price where Banda has accepted Dr.Perera's offer under the postal rule.

So, the said letter reached doctor Perera's home on 21<sup>st</sup> February is immaterial. By entering a contract with Shiva on 19<sup>th</sup> February,Dr Perera breached the contract entered into with Banda on 18<sup>th</sup> February.

In the light of above, Banda could take a legal action against Dr.Perera.(Household Fire Insurance Co Vs.Grant)

In this scenario, Dr.Perera's advertisement mentioned that Rs. 10,000/-reward will be paid by Dr. Perera to any person who loses hair colour or any damage after having used Dr.Perera's hair colour three times daily for 6 days, according to the printed directions supplied with each bottle.

This makes an offer which create an agreement, rather invitation to treat which doesn't create an agreement.

Vishaka can take a legal action against Dr.Perera due to loss of hair as she has followed the prescribed instructions.

**(07 marks)**

**B)**

**a)**

**Chapter 3 – The Law of Sale of Goods**

This situation is explicable with reference to the rules pertains to **change of ownership of goods**. In the contract entered into by **Ravi** with **Mohan**, it seems an intention signifying the change of ownership of goods had not been expressly agreed upon. Accordingly, ensuing results of the food, it is necessary to analyse rules prescribed in **Section 19 of the Sales of Goods Ordinance** which, deals with change of ownership.

**Rule No. 05** of the section 19 of Sales of Goods Ordinance provides that where there is a contract for the sale of unascertained or future goods, ownership property does not pass until the goods are unconditionally appropriated by one party with the express or implied consent of the other party.

Illustrative case laws in this regard are Pignataro v Gilroy, Healy v Howlett & sons and East Port Navigation Corporation Case

In the matter of Pignataro v Gilroy

Pignataro had sent a cheque on 27th February with a view to buying 140 bags of rice from Gilroy, who upon the receipt of the same had issued a dispatch order. Out of the order 125 bags were removed leaving 15 bags at the business premises of Gilroy, which Pignataro did not take out until 25th March, on which date those remaining bags were subject to the offence of theft without any negligence on the part of Gilroy. Pignataro instituted an action against Gilroy claiming damages from Gilroy. The Court held those 15 bags had been unconditionally appropriated to the contract thus property in the goods had already been passed to Pignataro who consequently had no course of action against Gilroy

In the scenario, **Ravi** had already appropriated the 100 Kg of dhal to the contract and **Mohan's** assent to this appropriation was inferred from his request to keep his dhal stock separately. Therefore the property or ownership of this 100 Kg of dhal, passed to **Mohan**, at the time this appropriation was made. By considering the above facts, it could be said that **Mohan** has to bear the losses occurred to the dhal. **Mohan has no legal right to request money back and refuse to take the dhal stock.**

Therefore **Ravi** is not obliged to give money back to **Mohan**.

(05 marks)

b)

### **Chapter 3 - The Law of Sale of Goods**

This is based on the implied conditions of the sale of goods ordinance.

In terms of **Section 15 (2) of the Sale of Goods Ordinance**, the goods sold by a seller in the normal course of business must be of **merchantable quality**. That is, the goods sold by the seller should be fit for general use for the purpose intended.

Section 15(2) of the sale of goods ordinance set forth in G.W.P Gunawardena V Ceylon Steel corporation by Court of Appeal of Sri Lanka.

In this case, a machine which is used to boil and dry paddy was found to be defective in as much as the paddy inserted to it was subject to change of color and impurity. The Sri Lankan Court of Appeal was of the view that the machine was not of merchantable quality.

Further in

**Howell V Coupland**

The buyer had asked for fresh crabs from the seller who had provided boiled/smoked crabs following the consumption of which, the buyer had fallen ill. The Court held the goods sold was not of merchantable quality.

The dhal purchased by **John** is not fit for general use for the purpose it was intended due to contaminated condition in it. As such, **Ravi** had breached an implied condition of the Sale of Goods Ordinance.

Further, the implied condition stipulated in **Section 15 (1)** that the buyer relies on the seller's skill that the goods are **reasonably fit for the purpose** has been breached. When requesting for dhal **John** had communicated his requirement to use in catering purpose, in an implied manner.

Similar Situation was explained in the matter of **Frost V Aylesbury Dairy Company Ltd**

In this case, the Seller had sold contaminated milk following the consumption of which, the buyer had died. The Court held that the milk had not been fit for consumption which purpose, the buyer had impliedly made known to the seller hence the seller was liable to compensate the loss

Accordingly **Ravi** had breached two implied conditions of the Sale of Goods Ordinance. Therefore, **John** can activate remedies available for a buyer against a seller. However, in this instance, the remedy available to **John** is recovery of damages by filing action in courts against the seller.

**Optional Case Laws**

**Wren V Holt**

**Millars of Falkirk Ltd V Turpie**

**Grant V Australian Knitting Mills Compan**

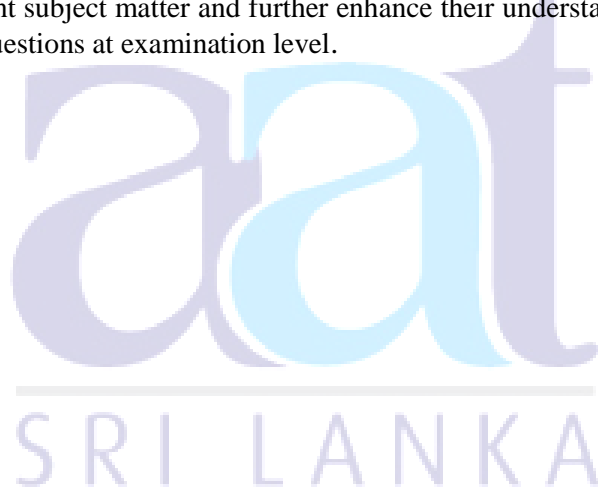
**(05 marks)**  
**(Total 25 marks)**

**End of Section C**

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