



SCHOOL OF LAW
NLLB105: LAW OF CONTRACT

END OF SECOND SEMESTER EXAMINATIONS

MAY/JUN 2025

LECTURER: C. MUNGUMA

DURATION: 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

1. Do NOT write your name on the answer sheet.
2. Answer any 2 questions from Section A and any 2 questions from Section B.
3. Credit is given for neat, logical and well written work.

Section A

Answer any two questions from this section.

Question 1

- a) Discuss with the aid of decided cases, any one theory that explains the basis for recognising and respecting contracts in our law. [18 marks]
- b) Explain the doctrine of privity of contract . [7 marks]

Question 2

Standard form agreements are generally treated as unfair by customers, clients and those with weaker bargaining powers, in negotiating contracts. This feeling is stronger in the area of exemption clauses. With the above view in mind explain how;

- a) The **courts** and [10 marks]
- b) The **legislature** has intervened in this field of law. [15 marks]

Question 3

- a) Explain any three (3) remedies available to a party who has suffered a breach of contract. [18 marks]
- b) What is mitigation of damages? [7 marks]

Section B

Answer any two questions from this section.

Question 4

The following terms appeared in a document titled terms and conditions in a contract of sale for electrical appliances and hardware:

“6. The seller shall not be liable for *any returns or replacements* unless the faults or defects *are identified by the customer* in the shop before leaving the counter.

7. The seller does *not provide any guarantee or warranty* on the quality or serviceability of the goods sold and purchased herein.

8. The seller is not liable for any harm or injury that the purchaser may suffer as a result of using the product or item bought from the shop.”

Using your knowledge of the common law, and statutory laws of Zimbabwe, will any of the above terms be binding on the following customers?

- a) One who buys a stove that stops working after a day’s use? [10 marks]

b) X who is injured by a pesticide that had no clear written instructions on how to use it. X used the chemicals without gloves and a face mask while the type of chemicals required the use of a mask and gloves at all the times.

[10 marks]

c) What does the *contra proferentem rule* provide in Zimbabwean law?

[5 marks]

Question 5

RATL Co. is a small business dealing in exotic pottery and porcelain. The business is owned by Katie and Kelly and is run as a partnership from Mutare City. Of late, business for the firm has been increasing and the partners want to employ a new accountant for the firm. RATL advertises in the press for the new position. John applies for the position and is called for an interview on Friday the 15th of January 2024.

After interviewing John, Katie and Kelly are very happy with John's performance in the interview as well as with his credentials. Katie who is the general manager of the firm advises John that he is the most suitable candidate that they had found. They ask John if he was willing to accept the job offer. John who is currently working in Victoria Falls, 800 kilometres from Mutare, asks for time to consider the proposal. John stated that, he needed time to consider the proposal and would revert by Monday the following week after discussing the issue with his family. Katie and Kelly said nothing in response to this request and John did not press for a commitment on that. The three parted at that note.

After the interview, Katie and Kelly discussed the interview further and considered John's high qualifications as a potential stumbling block for employing him. They decided not to offer John the position. Katie immediately phoned John and told him that, they would not be considering him for an appointment for the job. Unamused and deeply hurt John sends a letter demanding to be hired. He argued that RATL was committing an unfair labour practice by not hiring after making an offer. He threatened litigation if he was not hired.

a) If John carries out his threat and sues RATL Co. for breach of contract and committing an unfair labour practice, would he succeed in his action? Advise him fully on his chances of success. [15 marks]

b) During the COVID-19 period and in 2021, Tonde who had visited Changa province was caught by a lockdown order introduced in Changa 2 days after his visit. As a result, he could not go back to his home province of Manica for 21 days. Tonde who was employed by Bata Shoe Company in Manica missed work for a total of 16 days because of the lockdown order that was in place in Changa but not in Manica his home province. While Tonde sent an email message of his predicament to the human resources department as well as to his supervisor, the company did not accept his excuse. On his return to work, he was charged for being absent without leave for 16 days.

As the Hearing Official, who is tasked by Bata Shoe Company to hear and determine Tonde's case would you find Tonde guilty or not? Justify your answer. [10 marks]

Question 6

- a) Explain how the Constitution of Zimbabwe addresses contractual and commercial matters. [18 marks]
- b) Explain how the following terminates or discharges contracts:
 - i) Novation. [2 mark]
 - ii) Prescription. [3 marks]
 - iii) Compromise. [2 marks]

End of Examination Paper