

**THE INSTITUTE OF CHARTERED
ACCOUNTANTS (GHANA)**



**NOVEMBER 2008 EXAMINATIONS
(PROFESSIONAL)**

PART 1

**BUSINESS LAW
(Paper 1.4)**

Attempt ANY Five (5) Questions

TIME ALLOWED: 3 HOURS

PART 1

**BUSINESS LAW
(Paper 1.4)**

QUESTION 1

(a) Define consideration.

(5 marks)

(b) Mr. T T stays in a house at Batsona alone. Due to the fact that he is quite busy and his children are away in school, his compound has been overgrown with weeds. One day Innocent, a young boy in the neighbourhood, decided to weed the compound for Mr. T T. On his return from work Mr. T T was so pleased with the job done by Innocent that he promised to give him GH¢10.00 for his services. Explain whether Innocent can enforce this promise.

(5 marks)

(c) Joe Boy employed Santo as a loader in his warehouse. On the previous Tuesday, Joe Boy took delivery of a quantity of rice which was delivered at the warehouse around 11 a.m. At the time of delivery, the other loaders had all gone out so it was the lot of Santo to offload the rice from the vehicle.

When Santo started to offload, Joe Boy promised to give him GH¢20.00 after he had finished.

On completion, Joe Boy refused to honour his promise. Explain whether Santo can enforce the promise.

(5 marks)

(d) Jackie Joe is a collector of antiques. One day as he walked along a village street, he saw a Youngman playing with a 1940 model of Raleigh bicycle. He expressed the desire to buy the bicycle but the Youngman told him he would only give it to him in exchange for his 125 Honda motor cycle. He readily agreed and gave his motor cycle in exchange for the bicycle which, in terms of value, was worth only about 5% of the value of the motor cycle.

Explain whether this deal is valid.

(5 marks)

Total: 20 marks

QUESTION 2

- (a) Explain the terms **duress** and **undue influence** in the context of contracts and their effects on the validity of the contract.

(12 marks)

- (b) About two years ago, Arafat had some financial difficulties and approached Osofo Mako for spiritual upliftment. Osofo Mako took control of Arafat's mind so much so that he managed to get him to shun his wife and family. At one point, Osofo Mako informed Arafat that unless he gave his house for the use of his church he was going to die. As a result Arafat readily gave out the house at no cost to the church. Arafat has come to you for advice to recover the house. Explain whether he will succeed.

(8 marks)

Total: 20 marks

QUESTION 3

- (a) Explain the differences between **a condition** and **a warranty** in a contract of sale of goods and explain the legal effects of breach of any of these.

(12 marks)

- (b) Ajasco Enterprise deals in second-hand cars at Adabraka. One day Moneyswine, a wealthy businessman, called at his garage to buy a car. He selected a Toyota Camry 2005 model. Papa Ajasco, owner of Ajasco enterprise, told Moneyswine that his selection was good because the car had done only twenty-five thousand kilometers. Moneyswine therefore paid for the car and drove it away. Two days later he brought the car back that he was no more interested because he had discovered that the car had done forty-thousand kilometers instead of twenty-thousand kilometers.

Explain whether he is right in attempting to repudiate the contract of sale.

(8 marks)

Total: 20 marks

QUESTION 4

- (a) In order to protect hirers, the Hire Purchase Decree 1974, NRCD 292 declares as void certain provisions in the hire-purchase agreement. Explain any **four (4)** provisions that are declared void under Section 4 of NRCD 292. *(8 marks)*
- (b) What are 'Protected goods' under The Hire Purchase Decree, 1974 (NRCD 292)? *(4 marks)*
- (c) What are the restrictions on the owner or seller in respect of the recovery of protected goods? *(2 marks)*
- (d) What are the consequences when the owner or seller contravenes the restrictions in (c) above? *(6 marks)*

Total: 20 marks

QUESTION 5

- (a) What is a bill of exchange? *(2 marks)*
- (b) Explain any **four (4)** differences between cheques and other bills. *(8 marks)*
- (c) Examine the duties of a banker as to crossed cheques under the Bills of Exchange Act 1961 (Act 55) *(8 marks)*
- (d) What protection, if any, is granted a collecting banker under the Act? *(2 marks)*

Total: 20 marks

QUESTION 6

- (a) You are the Finance and Administration Manager of a newly established company. You have been tasked by the Managing Director to meet the workers representatives to negotiate a collective agreement. Briefly outline the matters on which you are going to make provisions in the agreement.

(10 marks)

- (b) Under the Labour Act, 2003 (Act 651) an employer has rights as well as duties to perform under the contract of employment. Explain **four (4)** of the rights and **six (6)** of the duties of the employer under the contract of employment.

(10 marks)

Total: 20 marks

QUESTION 7

- (a) As a Chartered Accountant and a Consultant, you were consulted on some investments. The investments made on your advice turned out worthless. An action of professional negligence has been brought against you. Discuss the legal issues to be considered in the determination of the matter.

(10 marks)

- (b) Distinguish between a **contract of service** and a **contract for service**.

(10 marks)

Total: 20 marks