

OXFORD CAMBRIDGE AND RSA EXAMINATIONS

Advanced GCE

LAW

2575

Law of Contract 2

Wednesday **19 JANUARY 2005** Morning 1 hour 30 minutes

Additional materials:
16-page Answer Booklet

TIME 1 hour 30 minutes

INSTRUCTIONS TO CANDIDATES

- Write your name, Centre number and candidate number in the spaces provided on the answer paper/answer booklet.
- Answer **two** questions, one from Section A and one from Section B.
- Read each question carefully and make sure you know what you have to do before starting your answer.
- If you use additional sheets of paper, fasten these securely to the answer booklet.

INFORMATION FOR CANDIDATES

- The number of marks is given in brackets [] at the end of each question or part question.
- The total number of marks for this paper is **100**.
- **All questions should be answered in continuous prose. You are reminded, therefore, that you will be assessed on your ability to organise and present information and arguments logically and coherently, and to communicate clearly and accurately, taking into account grammar, punctuation and spelling.**

This question paper consists of 2 printed pages.

Answer two questions, one from Section A and one from Section B .

Section A

- 1 'The general rule is that performance, to be effective, must be exact and complete.'
Discuss whether the strict application of this rule leads to injustice. [50]
- 2 Assess the way that the courts approach the granting of remedies when a misrepresentation has been established. [50]

Section B

- 3 Nazir runs a company selling fruit from South East Asia. She enters into a contract with Oriental Foods for a cargo of oriental fruit to be delivered to her warehouse in Birmingham. A clause of the contract states that the fruit will be 'shipped and arrive in good condition'.

Oriental Foods intends to fly the cargo to Birmingham Airport and then deliver it by road to Nazir's warehouse.

When the plane is making a re-fuelling stop in an African country it is prevented from leaving for three days because of a terrorist threat. The government of the country bans all aircraft movements. As a result of the heat at the airport some of the cargo starts to go mouldy. When the cargo arrives at Birmingham some of the fruit is mouldy and some is in a satisfactory condition.

Advise Nazir of her legal rights in such a situation. [50]
- 4 Mary, a computer software expert, runs a company called Alpha Software. Her husband, Paul, is a window cleaner who is self-employed. Mary has, on behalf of her company, a substantial overdraft with the Southern Bank. Mary wishes to increase the overdraft but the bank is only prepared to do this if the family house she jointly owns with Paul is used to provide extra security for the loan. Mary persuades her husband that the loan is necessary to save her business and their marriage.

The couple visit the local branch of the Southern Bank in order to sign the required documents. Before signing the manager of the bank says 'I believe you are both experienced business people and therefore understand the consequences of what you are doing.'

Mary's business is now in serious financial difficulty and the Southern Bank is seeking possession of the family home.

Advise Paul on the likelihood of him having the loan agreement with the Southern Bank set aside. [50]