

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications :-

B.Sc.

ES3030: Law II

COURSE CODE : **ENVS3030**

UNIT VALUE : **0.50**

DATE : **01-MAY-02**

TIME : **10.00**

TIME ALLOWED : **3 hours 15 minutes**

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TURN OVER

ENVS3030 LAW II

ANSWER FOUR QUESTIONS ALL QUESTIONS CARRY EQUAL MARKS

1.
 - a) Traditional forms of building and civil engineering contracts provide for the issue of certificates by the Architect, Engineer or Contracts Administrator. Explain the certificates that can be issued and discuss their contractual significance.

(13 marks)
 - b) Consultants must take care over the wording and the timing of their certificates or they could be vulnerable to an action for negligent misstatement. Discuss, using case law to illustrate your answer.

(12 marks)
2. "As far as the building contractor is concerned, it is in the award of public contracts that European legislation has had the most impact on the practice and procedures of the domestic industry" Joseph Dalby, E.U. Law for the Construction Industry, Blackwell Science, 1998, page 92.

Discuss this statement with reference to public sector construction procurement, explaining the appropriate E.U. Directives and illustrating your answer with case law as appropriate.

(25 marks)
3. A dispute has arisen between a sub-contractor and a main contractor over the erection of a reinforced in-situ concrete frame sub-contract. The sub-contractor alleges that as a result of numerous amendments, and instructions in order to accommodate design changes for the external cladding and ducts and supports for the mechanical engineering services he has experienced uneconomic working and delays to his programme. The sub-contractor has provided documentary evidence and financial calculations in the form of a contract claim to the main contractor. The main contractor denies responsibility for the sub-contractors loss saying that the so-called additional work and changes were in fact part of the sub-contractors work anyway and should have been allowed for in his tender, and as a result has responded with a claim against the sub-contractor for his failure to complete his works on time. The contract between the parties allows for Adjudication and Arbitration as the dispute resolution methods, but the sub-contractor, concerned about legal costs is also considering the ADR methods of Conciliation or Mediation as an alternative.

Advise the sub-contractor on these dispute resolution methods relative to his dispute.

(25 marks)

4.

a) The Working Time Regulations 1998 (SI1998/1833) which came into force on the 1st October 1998 implemented the provisions of the European Working Time Directive which was made under the health and safety provisions contained in The Treaty of Rome. Explain the main requirements of these regulations.

(12 marks)

b) It has been suggested that as a result of these regulations that the construction industry has had to review its working practices, employment procedures and labour costs. Discuss.

(13 marks)

5. Explain how a decision of the House of Lords in the case of Salomon v Salomon Co Ltd [1887] concerning a limited liability company has resulted in the common business practice of requiring parent company guarantees of the performance of subsidiary companies within a group structure.

(25 marks)

6. ABC Ltd entered a contract for the provision of maintenance services to Local Authority schools within the County of West Vale. The duration of the contract was 5 years and was won by ABC Ltd after a lengthy tendering process in January 2000. ABC Ltd were required by the terms of the contract to provide a full maintenance service to the school buildings and grounds as required by the Authority. Annually the Authority completed a schedule which ABC Ltd were instructed to complete within 12 months.

Payment for the work involved a labour + materials element together with a 10% profit margin for ABC Ltd. Additionally a fee per school requiring work was added to the payment calculated on the size of the school by pupil numbers.

The tender information provided to ABC Ltd upon application for the contract listed 500 schools in the West Vale area and suggested that some half of the schools would require work every year. The contract, which was awarded to ABC Ltd, provided as follows:

Clause 41.

" The Authority has a complete discretion as to how many schools will be approved for maintenance work in any year."

Clause 42.

"The Authority may carry out reorganisation of schools by mergers, rationalisations and closures."

The Authority issued its maintenance requirements for the year 2002-2003. ABC Ltd were horrified that only four schools had been approved for maintenance work and due to rationalisation of the schools the four were the smallest within West Vale, with less than 300 pupils in each school.

You are required to advise ABC Ltd as to whether the company can challenge the decision of the Authority by arguing that Clauses 41 and 42 are unfair contract terms?

(25 marks)

END OF PAPER