

Legal Profession Admission Board

March 2024

Contracts

Examiner's comments

General observations

1. Candidates were required to provide answers in response to three problem questions. All three problem questions were compulsory. All topics were covered in the exam.
2. 118 candidates sat the examination. Final marks were in the range 14 to 76. Two candidates were awarded a Pass Distinction grade, 23 candidates were awarded a Pass Merit grade and 56 candidates were awarded a Pass grade. The exam was designed as an opportunity not only for the student to showcase their knowledge of the principles of contract law but also their examination technique. Far too many students struggled to complete the exam within the time allotted. It was typical to see exam scripts in which students dedicated an excessive amount of time responding to Question 1, only to see poor and incomplete responses to Questions 2 and 3.
3. Students need to find a balance between showcasing their knowledge and completely responding to the exam questions. As a general rule, students should prioritise the legal issues they see relevant during reading time. Less time should be spent on issues that appear uncontroversial. Additionally, students need to actually analyse the controversial legal issues in the problem question. Too many students simply gave conclusionary or superficial responses to such issues, which did not translate into significant marks awarded to those students.

Questions

- (a) Question 1 focused on issues of contract formation, whether third parties can avail themselves of defenses under a contract, and termination of contracts (including the consequences of termination). This was the most complicated question in the exam paper. Students generally struggled to respond to this question. Better responses provided a complete answer to the three sub-questions, dedicating more time to the issues in sub-question 3.
- (b) Question 2 focused on vitiating factors (under the general law and statute) and damages. This was objectively more straightforward than Question 1, but students generally struggled with the point of the question – many

responses concentrated on legal issues or causes of action that would not assist the person you were asked to advise. Students need to remember that the point of an 'Advise X' question is to showcase knowledge of the legal principles applicable to the relevant causes of action that appear on the facts **and** whether those causes of action would generally be of assistance to that person.

- (c) Question 3 was a simple question that focused on the penalty doctrine and loss of bargain damages. Surprisingly, only a tiny handful of students satisfactorily answered this question. Many students did not understand the point of loss of bargain damages, and only a handful of students applied the law concerning the penalty doctrine based on cases more recent than *Dunlop Pneumatic Tyre Co Ltd v New Garage & Motor Co Ltd*. The responses to this question generally demonstrated a lack of knowledge of the legal issues in this area.
4. Overall, students would benefit from practicing adapting (rather than recapitulating) the key principles to the problems and thinking more deeply about the practical issues that arise from the question.