

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

1) Privity of contract means that the parties to a contract:

- A) are the only persons who are entitled to release private information about each other.
- B) can acquire rights under a contract but cannot incur liabilities.
- C) must be over 18 years of age or have the written permission of a parent or guardian.
- D) are the only persons who can acquire rights and incur liabilities under a contract.

Answer: D

2) There is a long established doctrine of contract law that states 'the only persons who can acquire rights and incur liabilities under a contract are the parties to the contract'. This doctrine is known as:

- A) novation of contract.
- B) privity of contract
- C) redemption of contract.
- D) partial performance of a contract.

Answer: B

3) Privity of contract means that:

- A) only parties with full contractual capacity can make a valid contract.
- B) contractual rights cannot be assigned to a third party.
- C) only the parties to a contract can acquire rights and liabilities under that contract.
- D) a valid contract must involve legal intention, agreement and consideration.

Answer: C

4) You are a creditor. You have assigned (transferred) your right to receive payment from the debtor to a third party. Which of the following rules apply?

- A) The assignment must be listed on the Official Register of Debts and Liabilities.
- B) The debtor is not obliged to pay the third party until he/she is notified of the assignment.
- C) The debtor must agree to the assignment.
- D) All of the above.

Answer: B

5) Liabilities under a contract can be assigned (transferred) from one party to another by 'novation'. This means that all the parties agree:

- A) to replace the old contract with a new one that contains the same terms but allows a third party to be substituted for one of the original parties.
- B) to enter into an additional contract and pay novo damages to one or more parties.
- C) to replace the old contract with a new one that contains different terms.
- D) to discharge (end) the original contract and try to find new business partners

Answer: A

6) What effect does bankruptcy have on a contract?

- A) The bankrupt's contractual liabilities are transferred to a trustee and all obligations both past and future are discharged.
- B) The bankrupt's contractual liabilities are transferred to a trustee and the bankrupt is no longer required to perform their contractual obligations.
- C) The bankrupt's rights, but not their obligations, are transferred to a trustee.
- D) The bankrupt is in breach and the contract comes to an end.

Answer: B

- 7) Jill entered into a contract to supply TAFE with 800 light bulbs and 250 window blinds. On the final day for completion of the contract Jill had not supplied 32 bulbs and 25 blinds of the required 400. In terms of discharge of a contract, this is possibly an example of:
- A) attempted performance.
  - B) a trivial variation.
  - C) a substantial variation.
  - D) substantial performance.

Answer: D

- 8) A release or waiver of a contract means that:
- A) the contract is released for sale on the open market to the highest bidder.
  - B) both parties who have partially performed their obligations agree to release each other from their remaining obligations.
  - C) one party who has performed all its obligations releases the other one from its obligations.
  - D) neither party has performed their obligations but they agree to release each other from their obligations.

Answer: C

- 9) One party to a contract cannot perform their obligations because of an unexpected illness. Which of the following terms best describes the legal effect?
- A) Attempted performance of a contract.
  - B) Operation of law.
  - C) Frustration of a contract.
  - D) An anticipatory breach of a contract.

Answer: C

- 10) When a contract is frustrated this means that the parties:
- A) cannot agree on adequate consideration for their contractual promises.
  - B) have suffered a communication breakdown.
  - C) cannot complete the contract because of circumstances outside their control.
  - D) have chosen not to complete the contract.

Answer: C

- 11) On 2 June Janica agreed to pay Nici \$9000 on 9 June for Nici's car. On 8<sup>th</sup> June Nici's car was stolen and completely burnt. Under common law the contract will not be enforceable because of:
- A) frustration.
  - B) common mistake.
  - C) voluntary assumption of risk.
  - D) unavoidable accident.

Answer: A

- 12) In *Taylor v Caldwell* a hall was hired to stage a concert. It was destroyed by fire before the date of the concert. The contract did not indicate how the contracting parties would be affected by this type of problem. The court held that:
- A) Neither party could enforce their rights as the contract was frustrated by the destruction of the subject matter.
  - B) each party was bound by the contract and had to perform the contract.
  - C) the contract was void because there was no mechanism in the contract to allow for this type of problem.
  - D) The party who had hired the hall could enforce their contractual rights as they were not involved in frustration of the contract.

Answer: A

13) The courts have ruled that a contract can be frustrated if:

- A) an event, on which the contract was based, does not occur.
- B) the subject matter of the contract is destroyed.
- C) a substantial change in circumstances means that the performance will be fundamentally different from the one agreed upon.
- D) all of the above.
- E) A and b only.

Answer: D

14) Under common law the legal effect of frustration of a contract means that:

- A) the parties are released from all obligations under the contract but the parties retain their legal rights.
- B) the parties are released from all obligations and rights under the contract from the time of the frustrating event.
- C) the parties are released from all rights but still have obligations under the contract.
- D) the parties are released from all obligations and rights under the contract.

Answer: B

15) Which of the following is not an example of a discharge of a contract by 'operation of law'?

- A) A material alteration of the contract.
- B) A breach of a term of the contract.
- C) A lapse of time under *the Limitations Act*.
- D) The death of either party to the contract.

Answer: C

16) Which of the following is an example of a merger in relation to contracts?

- A) a simple contract is discharged and merged into a formal contract that replaces the original contract.
- B) a formal contract is merged into a material one.
- C) a formal contract is discharged and merged into a new simple contract.
- D) a simple contract is discharged and merged back into the original contract.

Answer: A

17) Where one party (A) indicates that they are unable or unwilling to meet their contractual obligations the other party (B) is entitled to treat the contract as finished. This type of breach by A is known as:

- A) an actual breach.
- B) an anticipatory breach.
- C) a terminating breach.
- D) a partial breach.

Answer: B

18) Which of the following is not a way in which a contract can be discharged?

- A) Nominal performance.
- B) Operation of law
- C) Agreement between the contracting parties
- D) Attempted performance
- E) Actual performance

Answer: A