

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

1) Which of the following is the main common law remedy for a breach of contract?

- A) Damages.
- B) Restitution.
- C) Specific performance.
- D) An injunction.

Answer: A

2) The main purpose of damages is to:

- A) award money to compensate the innocent party for the inconvenience and stress caused by the breach.
- B) restore the innocent party to the position they would have been in if the breach had not occurred.
- C) penalise the guilty party that breaches the contract.
- D) place the innocent party in a position of profit.

Answer: B

3) The purpose of damages is to restore the innocent party (the plaintiff) to the position they would have been in if:

- A) neither party had incurred a loss.
- B) the breach had not occurred.
- C) the parties could be restored to their original position.
- D) the contract had not been performed.

Answer: B

4) Which of the following are equitable remedies?

- A) Specific performance and injunctions.
- B) Mitigation and monetary penalties.
- C) Damages and specific performance.
- D) Damages and injunctions.

Answer: A

5) Which one of the following is not an equitable remedy?

- A) Specific performance.
- B) Rectification.
- C) Restitution.
- D) Damages.

Answer: D

6) Which of the following statements is/are correct in relation to the award of damages for a breach of contract?

- A) Their purpose is to compensate the plaintiff in the case.
- B) The plaintiff must take reasonable steps to mitigate (reduce) their loss.
- C) Their purpose is not to punish the party that has breached the contract.
- D) All of the above.

Answer: D

7) Which of the following is not a test that a court will apply when it has to decide whether damages will be awarded?

- A) Did the breach cause loss?
- B) Was the plaintiff guilty of contributory negligence?
- C) Was there a breach of contract?
- D) Was the defendant aware the loss could result?

Answer: B

- 8) Oona has breached a contract. She will be liable for a loss that arises from this breach if, when the contract was being made:
- A) she knew the loss was related to an illegal purpose.
 - B) she knew the other party could face criminal charges because of her breach.
 - C) the other party advised her that this type of loss could occur.
 - D) all of the above occurred.

Answer: C

- 9) What is my name? I am a precedent for the rules that a party in breach of a contract will be liable for any loss that 'flowed' directly from the breach; the loss cannot be too remote and the loss must be reasonably foreseeable or specifically communicated.
- A) *The Victoria Laundry Case.*
 - B) *Baltic Shipping Co v Dillon.*
 - C) *Jarvis v Swan Tours.*
 - D) *Pavey & Matthews Pty Ltd v Paul.*

Answer: A

- 10) Which of the following is/are tests that a court will apply when it has to decide whether damages will be awarded?
- A) Was the loss or injury not too remote?
 - B) Was there a breach of contract?
 - C) Did the breach cause loss?
 - D) All of the above.
 - E) A and B only.

Answer: D

- 11) In contract law, *mitigation* means that parties who have suffered a loss because of a breach of contract must:
- A) take all reasonable steps to reduce the extent of their loss.
 - B) minimise the bad publicity that could be suffered by the part in breach.
 - C) take all reasonable steps in regard to litigation.
 - D) minimise the payments they make to solicitors and other parties assisting them.

Answer: A

- 12) Which of the following statements is true in relation to 'agreed' damages?
- A) The term refers to a specific sum of money.
 - B) The term is also known as 'liquidated' damages.
 - C) The courts will only enforce an agreed damages clause if it is a genuine pre-estimation of the actual loss suffered by the innocent party to a contract.
 - D) All of the above.
 - E) A and B only.

Answer: D

- 13) *Exemplary* damages are awarded to punish a party whose breach of a contract caused extreme inconvenience, disappointment or distress. Which of the following statements is true in regard to *exemplary* damages?
- A) They are rarely awarded in Australia.
 - B) They may be awarded in exceptional circumstances.
 - C) They are sometimes awarded as an alternative to a prison sentence.
 - D) All of the above.
 - E) A and B only.

Answer: E

- 14) Joe went on a cruise on an Alaskan Cruise ship. The ship sank off the Alaskan coast and Joe was in a life boat for several hours before being rescued. If Joe sues for breach of contract he has the right to claim damages for:
- A) the stress the news of the accident caused to his elderly mother.
 - B) his distress and disappointment over the ruined holiday.
 - C) the loss of his job because he was too upset to return to work.
 - D) all of the above.

Answer: B

- 15) Who am I? I am a case or cases where a travel company that breached its contract was ordered to pay damages for disappointment and distress.
- A) *Jarvis v Swan Tours*.
 - B) *Baltic Shipping Co Pty Ltd v Dillon*.
 - C) *Toravitz v London 'High Deck' Tours*.
 - D) All of the above.
 - E) A and B only.

Answer: E

- 16) I am a remedy which requires someone to stop doing something. What is my name?
- A) An affidavit.
 - B) A summons.
 - C) Specific performance.
 - D) An injunction.

Answer: D

- 17) John, who has council approval to carry out renovations on his house, can only work from 10 pm to 2 am. His neighbours are asking for a court order to stop John carrying out the renovation works at that time. What order are they seeking?
- A) Specific performance.
 - B) An order for rectification.
 - C) An injunction.
 - D) *Quantum meruit*.

Answer: C

- 18) Which of the following statements regarding the remedy of specific performance is not true?
- A) It is available for contracts involving the sale of land.
 - B) It is not available if the party seeking the remedy has failed to perform their obligations.
 - C) It is available for contracts involving unique or very special goods, such as one involving a vehicle that is the only one of its type in Australia.
 - D) It is available for contracts involving personal services, such as employment contracts.

Answer: D

- 19) I am a Mareva injunction. Which of the following statements about me is not true?
- A) I prevent money or assets being removed from the jurisdiction of the court.
 - B) My name is taken from a ship.
 - C) I am usually only available in travel or shipping cases.
 - D) The defendant must have assets within the jurisdiction of the court.

Answer: C

20) What is the purpose of a Mareva injunction?

- A) To keep the parties to a dispute within the jurisdiction of the court until a contractual dispute has been settled.
- B) To keep assets under the control of a trustee until a contractual dispute has been settled.
- C) To keep assets from being removed from the jurisdiction of the court until a contractual dispute has been settled.
- D) To keep parties in breach of a contract from disposing of their assets.

Answer: C

21) An Anton Piller order is used by the courts to:

- A) ensure that evidence is supplied to the parties as agreed to in a court document.
- B) ensure that all evidence produced under subpoena can only be inspected on court order.
- C) detain (hold) any party who may have evidence that could be relevant to a case.
- D) to obtain evidence where there is a reasonable concern that it may disappear.

Answer: D

22) What is the name of the equitable remedy for a breach of contract that is awarded to an innocent party if both parties cannot be totally or substantially restored to their pre-contract position?

- A) Rectification.
- B) Restitution.
- C) Rescission.
- D) All of the above.
- E) A and B only.

Answer: C

23) Restitution occurs where a court orders one party (the defendant) to restore or return money or other benefits to another party (the plaintiff). Which of the following requirements must be present before restitution can be ordered?

- A) The defendant received money or other benefits from the plaintiff.
- B) It would be unjust to allow the defendant to retain the benefit.
- C) The defendant had the opportunity to prevent the breach of a contract but did not take active steps to achieve it.
- D) All of the above.
- E) A and B only.

Answer: E

24) In *David Securities v. Commonwealth Bank (1992)* the High Court held that restitution could be available if one of the parties:

- A) was likely to become bankrupt.
- B) gained unjust enrichment at the expense of the mistaken party.
- C) did not gain unjust enrichment at the expense of the mistaken party.
- D) was able to put the other party out of business.

Answer: B

- 25) Which of the following statements is true in relation to the equitable remedy of *quantum meruit*?
- A) *Quantum meruit* literally means 'the quantity or quality you have acquired'.
 - B) People have the right to be paid a reasonable amount for goods or services they have provided to someone.
 - C) The remedy is most likely where one party has breached a contract involving a precise sum of money.
 - D) All of the above.
 - E) A and B only.

Answer: B