

**THE ROYAL SOCIETY FOR PUBLIC HEALTH**

ASSESSMENT FOR THE

**LEVEL 5 CERTIFICATE IN ADJUDICATION IN  
THE CONSTRUCTION INDUSTRY**

Date xxxxxx

Paper No. xxxxxxxx

Unit Two:

**The Application of the Law of Adjudication to the  
Construction Industry**

**IMPORTANT**

**READ THE FOLLOWING INSTRUCTIONS CAREFULLY**

1. Candidates should enter their candidate number in the space provided on the cover of the answer book. No signature or name should appear on the answer book.
2. You should write all of your answers in the answer book provided.
3. You should attempt to answer ALL of the questions
4. You are allowed THREE HOURS to complete the assessment.
5. This paper and your answer book must be left on your desk at the conclusion of the test.

SPECIMEN

1. For a contract to comply with the Housing Grants, Construction and Regeneration Act 1996, and be subject to the adjudication provisions, the contract must be in writing or be evidenced in writing. Discuss this statement. 20 mks
  
2. What, if anything, would be implied from the Scheme into a construction contract in the following situations and why?
  - a The construction contract says that the adjudication will be conducted under the TeCSA rules but omits the power for the adjudicator to make a binding conclusion on his own jurisdiction. 4 mks
  - b The construction contract says that the adjudication will be conducted under the TeCSA rules but omits the provision requiring the adjudicator to reach his decision within 28 days or such longer period. 4 mks
  - c The construction contract does not provide for a final date for payment. 4 mks
  - d The construction contract does not provide for a final date for payment but the agreed duration of the contract is 42 days. 4 mks
  - e The construction contract does not provide a right to suspend performance for non-payment. 4 mks
  
3. Having regard to case law, when does a dispute arise that gives rise to an entitlement for the matter to be referred to adjudication? 20 mks
  
4. What are the rules of natural justice and how do they apply to adjudication? 20 mks

- 5 Giving reasons for your answer; is a court likely to enforce an adjudicator's decision if:
- a There is a possibility that the adjudicator may have been biased? 4 mks
  - b The adjudicator was not appointed correctly and the responding party made a jurisdictional challenge on the point during the currency of the adjudication? 4 mks
  - c The claim changed during the proceedings? 4 mks
  - d The decision was issued late? 4 mks
  - e The adjudicator made an error in fact or law but acted within his jurisdiction? 4 mks