

**THE ROYAL SOCIETY FOR PUBLIC HEALTH**

ASSESSMENT FOR THE

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

Date xxxxxx

Paper No. xxxxxxxx

Unit One:

**The Application of English Law and the Law of Contract, Tort  
and Evidence to Adjudication in 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 have FIFTEEN MINUTES reading time before the start of the examination
5. You are allowed THREE HOURS to complete the examination.
6. This paper and your answer book must be left on your desk at the conclusion of the test.

SPECIMEN

1. Describe the sources of English Law and consider the extent to which the parties have the freedom to include what they wish in their contract terms. **20 mks**
  
2. Analyse the following in terms of the validity of the “agreement” and the legal rights operating between the parties.
  - a The Railway Hotel employs ACE Catering to supply and install kitchen equipment in its hotel. The agreement is executed by a Director of each company signing a deed. **5 mks**
  
  - b
    - i) Acme Contractors contract to build a house for Stephanie. The builder subcontracts the roofing work to Tiles R Us Ltd, on Acme’s standard terms in which agreement there appears a term which states that if Acme does not pay the subcontractor’s invoices in 28 days, the client will pay the subcontractor direct. **8 mks**
  
    - ii) How would your answer be different, if at all, if the term appeared in the contract between Acme and Stephanie?
  
  - c Lucy, aged 14, inherits some money and decides to purchase a stereo television and a DVD player. After a week of use, when the performance was perfect, the machine breaks down. She complains to the shopkeeper who, being aware of her age, refuses to acknowledge any liability. Does Lucy have any remedy, and if so, what is its basis? **7 mks**
  
3. “A party who does not perform the whole of the contract is not entitled to any payment.” Discuss this statement. **20 mks**

- 4 Outline the circumstances when an employer will be liable for the torts of his employees and his independent contractors. **20 mks**
- 5 Describe the problems posed by the following situations and the measures (or alternative measures) you could adopt to deal with them.
- a A key witness for the Respondent is only going to be available to give evidence up to one week before the hearing commences, at which point he is emigrating to Australia. **5 mks**
- b During the hearing, evidence is given by a witness for the Respondent to the effect that he handed £5000 in cash to the Claimant and produces a hand written document which he claims to be a receipt signed by the Claimant, who claims never to have seen the document before and declares it to be a forgery. You are requested to exclude both the document and the Respondent's witness's evidence about it. **5 mks**
- c The case involves a modest monetary claim, but involves technical issues. The Respondent insists on calling expert evidence in support of its case. **5 mks**
- d Mr Knowall (for the Claimant) gives evidence that he overheard a conversation in which he heard Jones accusing Smith of falsifying accounts. Knowall says he has heard Smith accused of such malpractice in the past. The Respondent says that this evidence should be disallowed. **5 mks**