

TOLES ADVANCED EXAMINATION

An Accurate Test of Legal English Skills

Do NOT open this paper until the invigilator gives you permission to do so.

You may NOT use a dictionary.

Answer all questions on the answer sheets in this booklet.

The time allowed for this examination is 2 hours.

Legal reading, writing and drafting Sample Paper

Candidate code:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

This examination paper is supplied by Global Legal English for use at registered centres.

© 2004 Global Legal English Ltd. Registered in England. Company no. 4101343.

11 Belton Street, Stamford, PE9 2EF, UK

QUESTIONS 1-10

Read the following extract from a loan agreement and decide which answer A, B, C or D best fits in each space. Put a circle around the correct answer **on the answer sheet**. Do NOT mark more than one answer for each question.

There is an example at the beginning (*).

(30 points)

1. MISCELLANEOUS.

- 1.1. Execution. This Agreement shall be (*)..... as from the date of this Agreement. The Agreement may be (1)..... in any number of (2)..... and by different parties on separate counterparts which when taken together shall (3)..... one agreement.
- 1.2. Entire agreement. The documents executed in connection with this Agreement constitute the (4)..... obligation of the Lender and (5)..... any previous expressions of intent or understanding in respect of this transaction.
- 1.3. Disclosure of information. The Lender may (6)..... on a confidential basis such information about the Borrower as the Lender shall consider appropriate to:
- 1.3.1. any existing or (7)..... (8).....
 - 1.3.2. any (9)..... company of the Lender
 - 1.3.3. its professional advisors
- 1.4. Publicity. No announcement or other publicity relating to the loan facility shall be made or arranged except by or with the prior written (10)..... of the Lender

ANSWER SHEET QUESTIONS 1-10

- * *A. efficient* ***B. effective*** *C. operational* *D. valuable*
- (1) **A. completed** **B. implemented** **C. executed** **D. performed**
- (2) **A. documents** **B. equivalents** **C. foils** **D. counterparts**
- (3) **A. give** **B. signify** **C. constitute** **D. make**
- (4) **A. entire** **B. main** **C. intact** **D. completed**
- (5) **A. supersede** **B. follow** **C. substitute** **D. take place**
- (6) **A. say** **B. disclose** **C. unveil** **D. offer**
- (7) **A. potential** **B. latent** **C. impending** **D. pending**
- (8) **A. buyer** **B. seller** **C. assignee** **D. vendee**
- (9) **A. subsidiary** **B. supplementary** **C. additional** **D. secondary**
- (10) **A. consent** **B. allowance** **C. blessing** **D. compliance**

QUESTIONS 11-20

Read the text below and think of the word which best fits each space. Use only **one** word in each space. Write your answers **on the answer sheet**.

There is an example at the beginning (*)

(30 points)

CONTRACT LAW: OFFER AND ACCEPTANCE

An offer may be defined as an indication by one person that he or she is prepared to contract with one or more others, on certain (*)...., which are fixed, or capable of being fixed when the offer is made. Distinction should be made between an offer and an invitation to (11) Sometimes one of the parties will simply wish to open negotiations, rather than make an offer that will lead immediately to a contract upon acceptance. For example, in the (12) of *Fisher v Bell* (1961) it was (13) by the court that goods offered for sale in a shop window with a price attached were not offers according to the law of contract and that a shopkeeper is not (14) by any price displayed. He or she is entitled to say to the customer “that is a mistake”. The same principle applies when potential contractors are invited, (for example, by the city council who want to build a new library) to submit quotations to do a specific job at a specific price. According to the law of contract, an invitation to (15) that leads to several interested parties “bidding” for the same contract will not be seen as an offer capable of being accepted but merely as part of the negotiating process.

Even if an offer takes a legally binding form it can still be (16) , in other words “taken back” at any point before it is accepted. The communication of this decision need not necessarily come from the offeror. Provided that the (17) is fully aware at the time that he or she decides to accept the offer that it is no longer open in the mind of the offeror then no acceptance will be possible. An offer may also become incapable of acceptance because of (18)of time. If the offeror has specified a time in which acceptance must be received, any acceptance outside the time limit cannot create a contract.

There must also be certainty in offer and acceptance. Even though the parties may have appeared to make an agreement by exchange of a matching offer and acceptance, the courts may refuse to (19) it if there appears to be some uncertainty about what has been agreed or if some important aspect of the agreement has been left (20) to be decided later.

ANSWER SHEET QUESTIONS 11 – 20

Example (*) *terms*

(11)

(12)

(13)

(14)

(15)

(16)

(17)

(18)

(19)

(20)

QUESTIONS 21-22

Read the two extracts below. The origin of the extract is given. Redraft each extract to make them more easily understood by the client.

Write your answers **on the answer sheet**

(32 points)

REDRAFTING SKILLS

(21) From an agreement to accept an advertisement

Advertisers are hereby notified that it is the policy of this magazine to refuse publication of any material designed for the purpose of promoting, influencing, encouraging, or advancing the sale of any products, goods, services, wares, commodities, or the like, which because of its content, form, style, substance, appearance, or manner of presentation is or may be likely to cause any reader thereof to believe that said material is an article, story, column, editorial, or similar nonadvertising portion of this paper.

(22) From an internal memo concerning a rate agreement

No rate agreement shall qualify under section 2(a) unless not fewer than 30 days notice is given to all customers; and unless said rate agreement has been published, as provided above, provided however, that the publication requirement shall not apply to emergency rates; and until said rate agreement has been approved by the commission.

ANSWER SHEET QUESTIONS 21 – 22

(21)

(22)

SAMPLE
PAPER

QUESTIONS 23-32

Read the sentences below and think of the word which best fits each space. Use only one word in each space. There is an example at the beginning (*).

Write your answers **on the answer sheet**

(30 points)

Example: A meeting was ()... for the next week to discuss the slump in sales in greater detail.*

23. The trust was created to promote new business by offering a start-up loan to young entrepreneurs and anyone under the age of 30 was (23) ...to apply under the selection criteria.
24. The tenth clause (24) ... stated that there would be a fixed penalty to pay in the event of breach and it is clearly wrong to suggest that the contrary is implied elsewhere in the contract.
25. When a business is sold it is very difficult to calculate the value of (25) ...assets such as goodwill.
26. If payment is not received within 7 days of the date of this letter then we shall proceed to court without further (26)...
27. The tort of (27) ... can be defined as something that causes an inconvenience to someone, very often by interfering with their enjoyment of their land.
28. The government is currently taking steps to reduce the stigma of (28) ...so that sole traders who have gone out of business due to debt problems can start afresh relatively easily.
29. Someone who is in a position of trust and has a duty to act for the benefit of another owes a (29) ... duty to that person.
30. The rental contract forbade the tenant to keep animals on the premises but as he had a guide dog the landlord gave special (30) ...for him to do so.
31. The politician sued the newspaper for (31) ... when they printed a story about him accepting bribes in return for political favours.
32. He agreed to take two extra days of holiday in summer in (32) ... of working New Year's day.

ANSWER SHEET QUESTIONS 23 – 32

Example () convened*

(23)

(24)

(25)

(26)

(27)

(28)

(29)

(30)

(31)

(32)

QUESTIONS 33 – 42

Read the following sentences and put a preposition in each space. Write your answers **on the answer sheet**. Do NOT give more than one answer for each question.

There is an example at the beginning (*).

(30 points)

* **Example:** *Your contract of employment provides that you are entitled (*)..... 25 days holiday.*

33. According to our records you are indebted to the company **(33)**..... the sum of £1,893.42.
34. The solicitor confirmed that she had sent a letter to Cleaneasy Ltd, in accordance **(34)**..... her client's instructions.
35. As a result of his accident at work, Mr Young decided to claim against his former employers **(35)**..... the hope of receiving compensation.
36. Mr and Mrs Greenwich failed to make the repayments **(36)**..... the terms of the mortgage and the bank have started proceedings to obtain possession of their house.
37. I enclose a cheque for £1,762 in payment **(37)**..... your invoice dated 24 December 2000.
38. A private limited company cannot issue shares **(38)**..... excess of its authorised share capital as stated in its memorandum of association.
39. We are writing to inform you that, despite 3 reminders, we have not received any payment **(39)**..... date and if this situation continues, we will have no alternative but to start legal proceedings.
40. Value Added Tax ('VAT') is charged **(40)**..... supplies of goods and services made in the UK.
41. Rather than enter **(41)**..... a contract direct with their customers, some businesses prefer to operate through an agency or distributorship agreement.
42. Shareholders receive profits on their investment in a company **(42)**..... way of dividend.

ANSWER SHEET QUESTIONS 33 – 42

*Example * to*

(33)

(34)

(35)

(36)

(37)

(38)

(39)

(40)

(41)

(42)

QUESTION 43

Read the letter below that a solicitor has written on behalf of a client. The letter is too informal in style and vocabulary.

Rewrite the letter in a more appropriate way. Do not change the meaning or lose any of the information it contains.

Write your answer **on the answer sheet**.

(60 points)

Opel, Knight and Dunstone
Solicitors
11 Chestnut Avenue
Brighton
BR2 4JP

Tel: 01685 487600
Fax: 01985 487685

26 January 2001

Ref: TOLES 43

Richards and Morgan
Chartered Surveyors
43 High Street
Brighton
BR1 5FD

Dear Richards & Morgan

We are working for Mr and Mrs Jacobson. They bought a house (19 Wilson Close, Hove, Brighton) 1 and a half years ago. Before they decided to buy it, they asked you examine the house and do an in-depth survey paper on it.

You gave them such a report which said among other things that the roof was old, but that it would not need any work on it for 5 years. You also said that you had checked with the planning department of the county council and there were no plans that would be bad for the house.

The Jacobsons believed your report and bought the house for £79,950. But they have had a lot of trouble with the house. The roof leaked, causing a large amount of damage to the inside of the house which the Jacobsons had to redecorate and they had to replace 30% of the tiles on the roof. But what is the worst point is that a new main road is being built which will pass at the end of their garden. This will cause a huge amount of inconvenience and upset to the Jacobsons and has made their house worth much less.

We think that we have a good case for a claim against you for bad work and we are going to sue you for this. You must send us the name and address of your insurers so that we can write to them as well.

Regards
Thomas Bedford

ANSWER SHEET QUESTION 43

Opel, Knight and Dunstone
Solicitors
11 Chestnut Avenue
Brighton
BR2 4JP

Tel: 01685 487600
Fax: 01985 487685

Richards and Morgan
Chartered Surveyors
43 High Street
Brighton
BR1 5FD

26 January 2001

Ref: TOLES 43

SAMPLE
PAPER

QUESTIONS 44-53

Read the text below. Use the word given in bold type at the end of each line to form a new word that goes into the space in the same line. There is an example provided for you at the beginning (*).

Write your answers **on the answer sheet**.

(30 points)

The rules covering this area (*) ...fairly heavy burdens on the claimant, particularly in (44) ... to mistake. It would not be (45) ..., for example, if a party to a contract could simply say "I'm sorry, I made a mistake" and undo a (46) ... agreement without any thought for the consequences. (47)... , there are some (48) ... such as large chain stores who feel able to allow customers who have changed their minds to (49) ... or return goods that are in no way (50) ...

These arrangements are, however, (51) ... to the general position which will only (52) ...a party to cancel the agreement in a limited (53)... of circumstances.

IMPOSITION
RELATE
SATISFY
COMPLICATION
CONVERSE
CONTRACT
CHANGEABLE
STANDARD
EXCEPT
PERMISSION
ARRAYMENT

ANSWER SHEET QUESTIONS 44-53

Example () impose*

(44)

(45)

(46)

(47)

(48)

(49)

(50)

(51)

(52)

(53)

QUESTIONS 54 – 59

Read the following conversation between two lawyers from the same law firm (L1 and L2). They are talking about a meeting that they are going to attend with two lawyers from another law firm to negotiate the proposed takeover of part of their client company.

Give a short explanation of the meaning of each of the underlined idiomatic expressions. Write your answer **on the answer sheet**.

There is an example at the beginning (*)

(18 points)

L1 OK, so how shall we approach this meeting tomorrow? We've got to remember that speed is of the essence, the deal has to be struck quickly before other firms try to move in. At the moment we are in danger of getting (*)bogged down with the finer details rather than seeing the big picture.

L2 Yes, that's true. Who's going to be at the meeting on Thursday?

L1 Dan Hawthorne and Jack Glass. Haven't had much to do with Dan, but I know Jack pretty well. We'll have to watch him – he's a (54)hard nut to crack once he gets his mind made up about something. I was on his team once a couple of years ago and the other side really got (55)taken to the cleaners – I almost felt sorry for them!

L2 Sounds like we could be in for a (56)rough ride.

L1 No, we'll be all right. We've got a lot in our favour. But we mustn't forget that Tom [the Managing Director of the client company] will be at the meeting. We'll have to try to persuade him to leave the talking to us - he tends to (57)jump the gun a bit and open his mouth without thinking of the consequences. Talking of Managing Directors, what do you think of the Managing Director of Pluto?

L2 Hmmn, not sure really, the (58)jury's still out on that one. He's clever, but there's something about him that I can't (59)put my finger on.

ANSWER SHEET QUESTIONS 54 – 59

*Example * stuck in details and not addressing the main point.*

(54)

(55)

(56)

(57)

(58)

(59)

QUESTION 60

You have received the following email. Write your reply **on the answer sheet**.

(80 points)

To: candidate@TOLES.com
From: confused@need_help.co.uk
Subject: What does this mean?
Attachments: Extract from loan agreement

Hi

Sorry to take up more of your time, but I need some help. I've attached part of a loan agreement that the bank has sent to me. I don't understand the legal terms so could you send me an email giving me a summary of the clauses in plain English and in particular, explaining the words that I've underlined?

Thanks for helping out – I'll buy you a beer next time I see you.

Cheers

Fred

Attachment

EVENTS OF DEFAULT

1. Events of Default. Each of the following events and circumstances shall be an Event of Default:
 - 1.1. Failure to Pay: the Borrower fails to pay any sum payable under this Agreement when due and otherwise in accordance with the provisions hereof;
 - 1.2. Performance of Other Obligations: the Borrower fails duly and punctually to perform or comply with any of its obligations under this Agreement and, in the case only of a failure which in the opinion of the Lender is capable of remedy and which is not a failure to pay money, does not remedy that failure to the Lender's satisfaction within 7 days (or such longer period as the Lender may approve) after receipt of written notice from the Lender to do so;
 - 1.3. Execution: a creditor takes possession of all or any part of the business or assets of the Borrower, or any execution or other legal process is enforced against all or any part of the business or assets of the Borrower and is not discharged within 14 days, or any order is made against the Borrower and is not complied with or discharged within 14 days (unless the order is subject to appeal and is contested by the Borrower in good faith);
 - 1.4. Inability to Pay Debts: the Borrower stops or suspends payments to its creditors or any class of its creditors, or is unable or under applicable law is deemed to be unable or admits its inability to pay its debts as they fall due, or seeks to enter into any composition or other arrangement with its creditors or any class of its creditors, or is declared or becomes bankrupt.
 - 1.5. Material Adverse Change: any situation occurs which in the opinion of the Lender gives reasonable grounds to believe that:
 - 1.5.1. a material adverse change in the business or financial condition or prospects of the Borrower has occurred; or
 - 1.5.2. the ability of the Borrower to perform its obligations under this Agreement has been or will be materially and adversely affected.

ANSWER SHEET QUESTION 60

Reply

To: confused@need_help.co.uk

From: candidate@TOLES.com

Subject: Re: What does this mean?

SAMPLE
PAPER