

FOR SUBMISSION
DUE BY 25 APRIL 2022 AT 17:00

SURNAME:	Pillay
NAME:	Deshlan
STUDENT NUMBER:	21481084
GROUP:	Click or tap here to enter text.

Instructions:

- Please answer the following questions by means of any of the following methods:
 - Fill in your answers on this document (electronically) and save in Word/PDF;
 - Fill in your answers on a separate piece of paper (by hand) and scan it in/take a photo.
- Please submit it through attaching your attempt to the link on the BER 210 ClickUp page, under the content area “Tutorial Submission Links”, through clicking/tapping on the link “TUTORIAL 6: SUBMISSION LINK”.
- Then attach your attempt by clicking/tapping on “Browse Local Files”:

ASSIGNMENT SUBMISSION

Text Submission

Write Submission

Attach Files

Browse Local Files

Browse Content Collection

Browse Cloud Service

- When finished click on “Submit”:

*When finished, make sure to click **Submit**.**Optionally, click **Save as Draft** to save changes and continue working later, or click **Cancel** to quit without saving changes. You are previewing the assignment - your submission will not be saved.*

Cancel

Save Draft

Submit

FOR SUBMISSION
DUE BY 25 APRIL 2022 AT 17:00

Questions:**1. Explain the differences between concepts 'release' and 'compromise' (4)**

A release is a bilateral act based on consensus between debtor and creditor. The creditor usually makes an offer to the debtor, should the debtor accept this offer, he/she is freed from his/her contractual duties. Compromise is an agreement between two parties to settle an existing dispute between them. The contract is terminated and substituted by the new settlement contract which determines the rights and duties of parties.

2. Parties to a contract automatically have the following remedies (relief) by law, namely a claim for specific performance, cancellation, and damages. However, the contracting parties may also agree on remedies that have the same objectives as the remedies available by law. Name the typical forms of the agreed remedies and explain the effect that they may have against the remedies available by operation law. (4)

Damages An innocent party may claim damages from the party in breach in respect of all breaches of contract. The damages may be nominal or substantial. Nominal damages are awarded where the innocent party has suffered no loss as a result of the others breach and substantial damages are awarded as monetary compensation for loss suffered as a result of the other party breach. **Specific performance** It is a general rule that specific performance will not be ordered if the contract requires performance or constant supervision over a period of time and the obligations in the contract are not clearly defined. **Cancellation** The contract may expressly state that if one of the parties breaches terms of the contract or fails to perform within the agreed time, the other party is entitled to cancel the contract, sometimes after notice to cure the breach

3.**3.1) The period of prescription for a debt owing to the State arising from a loan of money and the sale of lease of land is: (1)**

- a) 30 Years;
- b) 3 Years;
- c) 6 Years;
- d) 15 Years;**

**FOR SUBMISSION
DUE BY 25 APRIL 2022 AT 17:00**

3.2) The purpose of a claim for damage based on the breach of contract is to put the prejudiced party in the position she or he would have been had breach not occurred.

(1)

a) *True*

b) *False*

3.3) Amanda is the owner of a brick manufacturing company. She concluded a contract with Tito to manufacture and deliver 10 000 bricks or 10 pallets of bricks (one pallet contains 1 000 brick units) to Tito at his farm on Monday 25 April 2022 at 10:00. On Friday 22 April 2022 Amanda phoned Tito and indicated that she got a better price for the bricks from Busi and is going to deliver the pallets of bricks to Busi instead. Choose the most correct statement regarding Tito's remedies: (1)

a. Tom will not have any remedies against Byron.

b. Tom must institute his remedies against Tito.

c. Tom does not have to accept Byron's cancellation and can choose to enforce the contract.

d. Tom must accept Byron's cancellation and cannot enforce the contract.

4. Name and explain the two forms of prescription in your own words and given an example of each. (4)

Weak prescription- debts become unenforceable on completion of the period of prescription. Strong prescription- debt is extinguished on completion of the period of prescription.

5. Identify and explain how the following contractual relationships between the contracting parties were terminated: (12)

a. A owed R2 000 to C in respect of a laptop A bought from C on credit. C then borrowed R2 000 from A to purchase tickets for the Durban July.

**FOR SUBMISSION
DUE BY 25 APRIL 2022 AT 17:00**

- b. Brick (B) bought a play station 5 from Connie (C). Neither B nor C was aware that prior to the conclusion of the contract, the device had already been stolen.**
 - c. X owed R 300 000 to Y in respect of a house X bought from Y. After the house was registered in X's name, X married Y in community of property.**
 - a) A initially owed money to C, so A has the duty to pay R2000 to C and C has the right to claim this from A. However, when C borrows R2000 from A, C now has the duty to pay R2000 to A and A has the right to claim this from C, it is reciprocal due to all parties having performed their obligations.
 - b) Impossibility of performance, due to neither B or C being aware the PS 5 has been stolen previously, it is without fault from both parties involved, so both B and C's obligations will be terminated as the product in question had been illegally obtained but without knowledge of either party involved, resulting in it being a factor beyond their control.
 - c) Merger, since X married Y after obtaining the house and the duty to pay the R300 000 to Y, the same person becomes both the debtor and the creditor in the case of both X and Y. This results in a merger and the obligation is extinguished.
- 6. Ben is an entrepreneur who sells eggs in his local community. Abel is a breeder of chickens that produce Grade A, extra-large eggs. Ben and Abel enter into a contract where Abel will supply Ben with his chickens' eggs. They agreed that Abel will deliver 300 eggs to Ben on 25 March 2022. However, heavy rain destroyed Abel's barn and killed most of his chickens. Abel informs Ben that he will not be able to deliver the eggs as per the agreement. (4)**

I am sorry, I am unable to find the question relating to number 6.

FOR SUBMISSION
DUE BY 25 APRIL 2022 AT 17:00

7. Aeejay and Ben conclude an agreement that Aeejay will deliver 75 tons of coal to Ben at a set amount per ton. On the day agreed upon by the parties, Aeejay delivers only 50 tons of coal to Ben's plant and informs Ben that, after weeks and weeks of mining, they could only mine the 50 tons of coal and also that the mine was actually declared redundant. The form of breach are performance rendered impossible due to Aeejay's fault.

Based on this breach, what would be the most appropriate remedy/remedies available to Ben? (4)

Specific Performance, Exceptio non adimpleti contractus, cancellation, remedies by operation of law

8. Provide one (1) word / phrase or name of a principle which best describes the following statements: (3)

- a. The recourse to which an injured party (plaintiff) is entitled to.
- b. Additional remedies that parties may include in a contract are called.
- c. When the parties to a valid and binding contract conclude a second contract with the intention of terminating and substituting the existing contract with the second one. An agreement between parties to settle an existing dispute between them.

- a) Remedy
- b) Agreed Remedies
- c) Novation

END