Revision Summary Chapter 12

Remedies for breach of contract

• The basic aim of damages is to put the claimant in the position in which he would have been had the breach not occurred, thereby compensating the claimant for his 'expectation loss'.

• Alternatively, the claimant may elect to cover his 'reliance loss' (that is, monies already spent in anticipation of the defendant's proper performance).

• Damages that are a natural consequence of the breach can be claimed, provided they are in the reasonable contemplation of both parties. Damages that are not a natural consequence of the breach cannot be claimed, unless such loss is in the reasonable contemplation of both parties at the time that the contract was made.

• Restitutionary remedies arise where the defendant has been unjustly enriched by his breach of contract.

• A claimant may be able to claim a *quantum meruit* (reasonable sum) based on work already performed if he has terminated the contract for a repudiatory breach by the defendant.

• In exceptional cases, a claimant may be able to recover profits from a defendant who has benefited from a breach of contract, even though the claimant has suffered no loss.

• Specific performance is a discretionary order of the court requiring the defendant to fulfil his contractual obligations. Failure to comply with an order for specific performance constitutes contempt of court.

• Whereas the common law remedy of damages is available as of right, the equitable remedy of injunction is available at the court's discretion. Failure to comply with an injunction constitutes contempt of court.

• Injunctions may be mandatory (requiring the defendant to do something) or prohibitory (requiring the defendant to refrain from doing something).

• Actions concerning simple contracts (that is, those not made by deed) must be brought within six years, beginning with the date on which the action arose. Actions concerning contracts made by deed must be brought within twelve years, beginning with the date on which the action arose.