

THE JOINT EXAMINATION BOARD

PAPER Law – Basic English Law

Tuesday 1st November 2005

3.00 – 5.00 p.m.

Please read the following instructions carefully. Time Allowed – 2 HOURS

1. You should attempt **four of the five questions from Part A** and **four of the five questions from Part B**.
2. Each question in Part A carries 10 marks and each question in Part B carries 15 marks. Marks for sub-sections of a question in Part B are also indicated. If five questions are answered in either Part A or Part B, they will be marked in the order presented and the fifth ignored.
3. Please note the following:
 - a. Start each question (but not necessarily each part of each question) on a fresh sheet of paper;
 - b. Enter the Paper Name (Law), the question number and your Examination number in the appropriate boxes at the top of each sheet of paper;
 - c. The scripts are photocopied for marking purposes. Please write with a **dark inked pen** on one side of the paper only and within the printed margins. Do not use highlighters in your answer;
 - d. Do not staple or join pages together in any way;
 - e. Do not state your name anywhere in the answers;
 - f. Write clearly, examiners cannot award marks to scripts that cannot be read;
 - g. Reasoning should always be given where appropriate.
4. Under the Examination Regulations **you may be disqualified from the examination and have other disciplinary measures taken against you if:**
 - a. you are found with unauthorised printed matter or other unauthorised material in the examination room;
 - b. your mobile phone is found to be switched on;
 - c. you copy the work of another candidate, use an electronic aid, or communicate with another candidate or with anyone outside the examination;
 - d. you continue to write after being told to stop writing by the invigilator(s). **NO WRITING OF ANY KIND IS PERMITTED AFTER THE TIME ALLOTTED TO THIS PAPER HAS EXPIRED.**
5. **At the end of the examination assemble your answer sheets in question number order and put them in the WHITE envelope provided.** Any answer script taken out of the examination room will not be marked.

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Part A

1. Identify the documentation and minimum requirements necessary for the formation of a limited liability company under English law and for each describe their function or purpose. **10 Marks**

2. Describe the hierarchy and structure of the English civil court system together with an explanation of the routes and rights of appeal. **10 Marks**

3. Write a file note for your client identifying the relevant advantages and disadvantages respectively of running a business as:
 - a. A sole trader;
 - b. A general partnership formed under the Partnership Act 1895; and
 - c. A company formed under the Companies Act 1985. **10 Marks**

4. Explain what is meant by “Privity of Contract” and what exceptions, if any, exist under the Contracts (Rights of Third Parties) Act 1999 and their effect. **10 Marks**

5. Identify the sources of English law and provide a concise explanation of three of the sources. **10 Marks**

Part B

6. a) In general terms, what is a Part 36 Offer according to the Civil Procedure Rules and what is its purpose? (2 Marks)
- b) Explain the effect of a Part 36 Offer on both the Defendant and Claimant where the Part 36 Offer made by a Defendant is rejected and (i) beaten or (ii) not beaten at trial. (8 Marks)
- c) What formal requirements are necessary to make a Part 36 Offer? (5 Marks)

15 Marks

7. Tessa sees a rare vintage dress in Sarah's boutique shop window and wants to buy it to replace the identical one she damaged. The swing tag attached to the dress states "Reduced for quick sale. Only £250. First to buy will love it forever!". The dress is Tessa's size and excitedly she runs over to Sarah behind the cash counter and says "I will take that dress now, here's my card!"

- (a) Identify and explain each of the essential requirements necessary to establish a binding contract. (8 Marks)
- (b) Advise Tessa as to her contractual rights (if any), ignoring the Trade Descriptions Act and similar legislation, in the following circumstances, explaining the reasons for your answer:
- (i) Sarah refuses to sell Tessa the dress because Sarah believes that Tessa is far too fat to wear it;
- (ii) Sarah agrees to sell the dress to Tessa but on scanning the bar code the price displayed, which Sarah insists on charging, is £350;
- (iii) After Tessa has paid, Sarah decides on reflection that she wants the dress herself. She refuses to hand it over and proceeds to refund the payment.

(7 Marks)

15 Marks

8. Explain and discuss conditions, warranties and representations as terms of a contract.

15 Marks

9. Christian decides to celebrate his 16th birthday paint balling in a local public forest with a group of friends. A local company, Paint-u-up, described as “The professional paint ball operators”, operates out of a building on the edge of the forest renting equipment for paint balling sessions. The boys hire the top of the range “Safety Package”. Under the “Safety Package”, Paint-u-up provides each person with an airgun, paint ball ammunition, and a jump suit labelled “The Paint Baller’s First Choice”. Paint-u-up does not provide any goggles or instructions. Before being provided with the above equipment the boys are each asked to sign a document that states ‘No liability howsoever arising is accepted by Paint -u-up’.

The boys break-up into two teams and disperse through the forest playing their game. Ignoring any contractual claims, discuss what liability, if any, is owed and by whom to Christian in respect of the following circumstances:

- (a) Christian is blinded in one eye as a result of one of his friends shooting him with a paintball;
- (b) Christian suffers multiple shots during the competition and his clothing is irreparably stained.

Explain your reasoning.

15 Marks

10. Your client has been served with proceedings for design right infringement. Write a file note for your client explaining its obligations with respect to its own compliance with the disclosure requirements and the procedure for disclosure and inspection of documents.

15 Marks