

THE JOINT EXAMINATION BOARD

BASIC ENGLISH LAW

Monday 7th October 2013

3.00 p.m. – 5.00 p.m.

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

1. You should attempt **four of questions 1 to 5** in Part A and **four of questions 6 to 10** in Part B.
2. The marks awarded to each question are shown at the foot of the question and sub-question where applicable. If more than the required four questions are answered in either Part A or Part B, only the first four presented will be marked.
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, and do not use highlighters in your answer;
 - d. Do not state your name anywhere in the answers;
 - e. Write clearly. Examiners cannot award marks to scripts that cannot be read;
 - f. Reasoning should always be given where appropriate.
 - g. You must number all the pages of your answer script. Once the exam finishes, an **additional** 5 minutes will be allowed for you to do this.
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, number all the pages and put them in the WHITE envelope provided.** Do not staple or join your answer sheets together in any way. Any answer script taken out of the examination room will not be marked.

This paper consists of FOUR pages, including this one.

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Part A

1(a) In relation to ownership of a property right, define the following and explain the differences:

(i) Tenants in common and (ii) Joint tenants. (8 marks)

1(b) Explain what is meant by an equal undivided share. (2 marks)

10 marks

2. Identify the main sources of English law and provide a concise explanation of three of the sources. **10 marks**

3. Discuss the differences between assignment and novation of an existing contract.

10 marks

4. In the context of a contract, what is meant by:

- (i) misrepresentation;
- (ii) condition; and
- (iii) warranty.

Discuss the consequences/available remedies for breach in each case.

10 marks

5. List the categories of responses available to a defendant in a negligence action. Explain each category.

In your answer, assume that the defendant has in fact actually acted negligently towards the claimant.

10 marks

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Part B

6. Under the Civil Procedure Rules:
- (a) Explain the nature of a Part 36 offer. (2 marks)
 - (b) In what instances can a Part 36 offer be made? (4 marks)
 - (c) When can a Part 36 offer be made? (2 marks)
 - (d) Who can make a Part 36 offer and what formal requirements are necessary for each party in making a Part 36 Offer? (7 marks)
- 15 marks**
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- 7(a) Explain the burden of proof and standard of proof required: (i) in civil litigation; and (ii) criminal prosecutions. (5 marks)
- 7(b) Briefly describe a freezing order, and list the conditions which must be met by the Applicant in order for the English Courts to grant a freezing order. (10 marks)
- 15 marks**
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8. Your colleague, Joe Bloggs, is a litigation practitioner as defined by the IPReg Rules of Conduct with a specialist qualification in IP advocacy and litigation. In relation to an English Court case relating to IP infringement, Joe has been instructed by a firm of foreign attorneys to act for their client, IPSA S.L. of Spain. At the case management conference it becomes apparent that the case also involves complex employment law issues. Because Joe had studied A-level employment law at night school, he is instructed by the firm of foreign attorneys to represent IPSA S.L. in Court in connection with these issues as well. However, IPSA S.L. send an urgent email directly to Joe instructing him to immediately stop acting for them in relation to the employment law elements of the case. Advise Joe.
- 15 marks**

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9. Jonathan had been saving up his wages to try and buy a motorcycle because, although he had qualified as a bike mechanic, he had been unable to afford his own motorbike. After saving for a year Jonathan has £750. While looking at a local newspaper, Jonathan is excited to see an advertisement saying "Motorbike for sale, needs some mechanical work, £700. Call Kevin on 0208 654444 or see, by appointment, at 2 Chalmers Road, London". Excited to see a motorbike for only £700, Jonathan immediately calls Kevin and he is told that the motorbike is still for sale. Not believing his luck, Jonathan says to Kevin "I'll give you £700 cash and I can do the work. I'm coming to get it straight away". Before Kevin can say anything Jonathan hangs up and rushes over to Kevin's address. On his arrival, about an hour later, Kevin has sold the motorbike to someone else. Considering the relevant legal principles, advise Jonathan whether there was a contract between him and Kevin.

15 marks

10. Since leaving school at 18, Mark has worked as an apprentice for a water company. Last year when inspecting one of the giant turbines, Mark fell and injured his leg as a result of the company's failure to repair the metal gantry surrounding the turbine. The water company was found negligent and Mark was left with severe weakness in his leg, which often gives way as a result of his injury. The water company asked Mark to stay on and continue to work for them because he is their most talented apprentice and likely to eventually qualify as an engineer.

Whilst conducting an inspection in a new turbine hall, Mark noticed that a light bulb over one of the turbines needed replacement. Without looking for his co-worker or calling for assistance, Mark started to climb a flight of narrow steep metal steps which had no handrails to access the turbine. Halfway up the steps, Mark's weak leg gave way and he fell backwards on to a concrete floor and suffered multiple injuries.

Identify what cause of action may be open to Mark and, considering the relevant legal principles, advise Mark as to whether you think that he may be successful in such action. If so, what remedies may be available to him?

Ignore any employment law or Health and Safety aspects.

15 marks