

Introduction

The syllabus for this paper is reasonably specific on a number of key areas of law. Consequently candidates are encouraged to read into and around syllabus since this will place them in the best position to gain the most marks in the examination and place them in the best position to provide advice to Clients on a broader spectrum of legal principles, as opposed to candidates who choose to make minimal preparation for this examination.

As with any examination, time management is a key element of providing the candidate with the best chance of success in the examination. In some cases it was clear that candidates had spent too much time on a question or questions and were then left with little time to answer others. This is unfortunate as even though the candidate may have been in a position to provide a good answer and gain good marks on all the questions, because they did not manage their time well, they were not able to do so. Candidates are also advised to read the examination questions carefully to ensure that they understand what the answer requires. Regurgitating everything they know regarding a topic which may serve only as the core of a question, rather than focussing on providing the information specifically requested in the question, loses time and precludes maximisation of marks.

Although nerves always play a part in examinations, it is important that handwriting should remain legible.

Questions

Part A

Question number	Comments on questions
Question 1	This was a popular question and attempted by all but one candidate. No analytical assessment was called for in order to gain good marks in this question. However, because this was a straightforward question, the Examiner was looking for a precise knowledge of the overriding objective of the Civil Procedure Rules Part 1 and therefore a precise answer. All candidates should be aware of the overriding objective and the responsibilities that it imposes on the Court and the user. The majority of candidates who answered this question, answered it well and as a result received good marks.
Question 2	In order to gain good marks in Question 2, a sound knowledge of the Tort of Malicious Falsehood was required. This was a popular question and all but one candidate attempted this question. However, overall the question was not answered well. A number of candidates tended to be repetitive in their answers and this gained no extra marks and in fact wasted time which could have been spent on other questions. It should be noted that in this Tort, a false statement is published in writing or any other permanent form. Some candidates indicated that a spoken statement would be caught. Furthermore, a number of candidates

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	indicated that the false statement is aimed at the Claimant, whereas it is aimed at third parties relating to the Claimants' commercial/economic interests. In order to provide a comprehensive answer, candidates should have mentioned that the burden of proof is on the Claimant to establish malice in an action for malicious falsehood.
Question 3	This question was attempted by the majority of candidates and overall answers were of good quality. In a ten point question candidates should remember to keep their responses brief and to the point. Rambling does not gain extra points and wastes valuable time. In order to gain good marks in this question all that was required was a basic knowledge of the different forms of evidence. A candidate could achieve a pass mark in this question, by merely naming the different forms of evidence. In relation to this question, candidates generally demonstrated that they had studied the topic and had sufficient knowledge to achieve good pass marks.
Question 4	This question was answered by all candidates. This was not surprising, as the law of contract is a key area of importance in this examination and therefore demands thorough revision. As a ten point question, high marks could be achieved through a straightforward answer, and all that candidates needed to do was regurgitate the four essential requirements for the formation of a valid contract, namely Offer, acceptance, consideration and an intention to create legal relations. Unfortunately, a few candidates did not refer to, or briefly discuss, an intention to create legal relations in their answer and, so, lost the opportunity of easy marks. Overall, it was apparent from the good marks achieved generally in this question that most candidates recognised the importance of the Law of Contract as a core study topic.
Question 5	This was one of the least popular questions in this examination and only four candidates selected to answer this question. The Syllabus for this examination includes Company Law and the law relating to company names and therefore this question fell squarely within the syllabus. However, this question was answered very poorly, and those candidates who attempted it failed to demonstrate sufficient knowledge of the Companies Act in defining and describing a 'too like' objection or discussing the remedy provided by the Companies Name Tribunal relating to opportunistic registration. Candidates should note that this topic is likely to come up in future papers, as could come up in everyday practice, and thus basic knowledge would serve the practitioner well.

Part B

Question number	Comments on question
Question 6	Most candidates selected to answer this fifteen mark question and some candidates achieved good pass marks, whereas others could have done better with sounder knowledge and also by assimilating the requirements of the question. Although most candidates were able to provide good definitions of a Limited Company, A Partnership and a sole trader, a number of candidates demonstrated a lack of knowledge

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	relating to Limited Liability Partnerships and some candidates just guessed, mistakenly, what they may be. A number of candidates were able to set down acceptable definitions of the four business types, but then omitted to discuss their advantages and disadvantages. Those candidates who achieved the highest marks covered comprehensively in their answers all that the question asked for.
Question 7	Every candidate sitting the paper answered this question. A number of candidates achieved high marks, but the answers provided by the majority of candidates were lacking in depth and detail and consequently achieved only lower marks. As a 15 mark question candidates were expected to demonstrate a thorough knowledge of the topic. This question required a discussion of the various tests applied by the Courts in determining whether or not to grant an interim injunction. Candidates were expected to consider the various points set out in the American Cyanamid case, which have been developed further in subsequent case law. Candidates on the whole were able to list 3-4 requirements under American Cyanamid, but not all candidates could expand on 'status quo' or 'balance of convenience', so missed out on easy marks. A number of candidates included discussion on freezing orders which was not part of the question. The candidates achieving the highest marks included reference to cross undertakings and equitable principles.
Question 8	This was a relatively popular question with candidates. It was a straightforward question as candidates were not requested to make any analysis but merely to set down details concerning European sources of law, both primary and secondary, and their application to the United Kingdom. Most candidates who answered this question had sufficient knowledge to attain good marks, although a number of candidates put down everything they know about European sources of law and, in relation to precedent, some candidates provided a full description of UK Court procedure. As a result their answers were not the brief discussion requested, and valuable time and effort was wasted on information which was not required in order to gain maximum marks. Candidates should take care to stay focussed on the exact requirements of the question.
Question 9	This question represented a high point in marks in this examination. In spite of being a very complicated scenario question, in their answers candidates proved themselves very able in picking out the relevant points, analysing them, applying the law, and setting down soundly reasoned and well justified answers. This was commendable. Most candidates who attempted this question achieved very high marks. At the centre of this question was the Tort of Negligence and candidates showed that they had studied well. Only a few candidates slipped into the trap of just stating, for instance, that Simon had no cause of action, without giving any reason for their finding. The majority of candidates provided well very rounded answers. Well done Candidates!
Question 10	Only a very few candidates decided to attempt this question which related to a very important area of law for practitioners, namely the IPREG Rules of Conduct and the Guidance Notes thereto. This indicates

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	<p>that candidates for this examination may not be comfortable with this area of law. However, it does form part of the syllabus and therefore is an area with which candidates should be familiar.... Not only for examination purposes but also in relation to every day practice. In order to gain a pass mark in this question, candidates needed a sound knowledge of the IPREG Rules and Guidance Notes and the ability to apply those Rules to the facts given in the question. It was apparent from the answers provided by the few candidates that answered this question that knowledge was scant and in some cases, answers were merely guessed. Also some candidates discussed the law of contract and negligence in relation to the facts given, in a question which pointed directly to the area of law from which the correct answer needed to be drawn. No marks could be given for this approach.</p>
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