

**THE JOINT EXAMINATION BOARD**

**BASIC ENGLISH LAW**

**5th NOVEMBER, 1997**

**3.00 p.m. - 5.00 p.m.**

Please read the following instructions carefully. This is a **TWO HOUR** Paper.

1. You should attempt no more than 4 questions from Part A and no more than 4 questions from Part B.
2. The number of marks allotted to each question is placed in brackets at the end of the question.
3. Where a question permits of reasons being given for the conclusions reached, such reasons should be given.
4. Start each question (but not necessarily each part of each question) on a fresh sheet of paper. In the appropriate boxes at the top of each sheet please enter the designation of the paper, the question number, and your Examination number. Write on one side of the paper only using **BLACK** ink. You must **NOT** staple pages together. You must **NOT** state your name anywhere in the answers.
5. Unless specifically requested, answers are **NOT** required in letter form.
6. **NO** printed matter or other written material may be taken into the examination rooms.
7. Answers **MUST** be legible. If the examiners cannot read a candidate's answers no marks will be awarded.
8. Please put your answers in **question number order** before placing in the envelope provided.

**4 PAGES, INCLUDING THIS PAGE**

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**PART A**

You should attempt 4 (**but not more than 4**) questions from this section.

1. List the sources of English law and give a concise explanation of three of them. (10 marks)
2. Identify and briefly explain the elements of negligence and the heads of recoverable damage (10 marks)
3.
  - a) Identify the different financial liabilities of a sole trader, a partnership and a limited company.
  - b) What are the minimum requirements to register a company in England and Wales? (10 marks)
4. Identify the types of "privilege" which can exist in documents in litigation. What are the purposes of "Without Prejudice" correspondence? In what circumstances does the application of that phrase fail to achieve those purposes? (10 marks)
5. Explain briefly how proceedings are initiated in:-
  - a) the High Court; and
  - b) the County Court.

Explain also how High Court and how County Court proceedings are brought to the attention of the Defendant. (10 Marks)

**PART B**

You should attempt 4 (**but not more than 4**) questions from this section.

6. Outline the circumstances in which one seeks:-
- a) Judicial review
  - b) a reference to the European Court. (15 marks)
7. Discuss the types of evidence that can be presented in:-
- a) The Patent Office in either patent or trade mark proceedings
  - b) the Court
- What form may the evidence take? (15 marks)
8. a) Explain what is needed to form a valid contract.
- b) David decides to buy a painting as a birthday present for his wife, Alice. James is one of Alice's favourite artists and so David agrees to buy one of James' paintings and the copyright in that painting as well. James knows that the painting is to be given away but does not know to whom and agrees that the copyright assignment can be executed later. David takes delivery of the painting and gives it to Alice but James then fails to execute the copyright assignment. What remedies are available under the contract
- i) to David and
  - ii) to Alice? (15 marks)
9. a) What is the purpose of the Summons for Directions in High Court proceedings? List 3 common directions.
- b) What is a Mareva injunction? Explain why you would obtain one and what needs to be proved in order to obtain one. (15 marks)

10. a) You are planning a major international filing programme for one of your clients. In view of the costs involved, you receive money on account from your clients. Briefly explain your obligations in holding that money.
- b) Mr Bill introduced Mr Ben to you as a new client several years ago. Both men operate their own businesses, quite separately from each other, making and selling widgets. There is an intellectual property right content to those widgets. Mr Bill has now fallen out with Mr Ben and is thinking about suing him for infringement of the intellectual property rights in his widget. Both men are trying to instruct you. State briefly what professional conduct points need to be considered in this situation and why.

(15 marks)