

THE JOINT EXAMINATION BOARD

LAW PAPER

BASIC ENGLISH LAW

11th November 1998

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 four questions from Part A and no more than four 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 room.
7. Answers **MUST** be legible. If the examiners cannot read a candidate's answer no marks will be awarded.
8. **NO** writing whatsoever, including numbering of papers, is allowed prior to the commencement of the examination or after it has finished.
9. Please put your answers in **QUESTION NUMBER ORDER** before placing in envelope provided.

THIS PAPER COMPRISES 3 PAGES (INCLUDING THIS FRONT SHEET)

BASIC ENGLISH LAW
11th NOVEMBER 1998

PART A

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

- 1 In criminal proceedings, explain the different roles of:-
- a) the magistrates
 - b) the jury
 - c) the judge
 - d) the barrister

(10 marks)

- 2 Explain the difference in effect in the UK of an EU directive and an EU regulation.

(10 marks)

- 3
- a) Explain
 - (i) *obiter dictum* and
 - (ii) *ratio decidendi*
 - b) Which Courts decisions are binding on
 - (i) the High Court
 - (ii) the Court of Appeal?

(10 marks)

- 4
- a) Explain the difference between a condition and a warranty.
 - b) What are the remedies for breach of a condition?
 - c) What are the remedies for breach of a warranty?

(10 marks)

- 5
- a) Explain the term "legal professional privilege".
 - b) For EITHER a patent agent OR a trade mark agent (identify which) set out the types of communications to which such privilege attaches.
 - c) What does the term "without prejudice" mean?

(10 marks)

PART B

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

- 6 Discuss the different elements which need to be established in a claim for trade libel. What remedies are available? What is the relevance of the concept of “freedom of speech”?

(15marks)

- 7 Eric intends to sell his hi-fi. He advertises it for sale in the local paper for £500. On reading the advertisement, David calls Eric and asks if he will accept £400 for the hi-fi. Eric says no, he is looking for £500. David says that he will think about it. David arranges to call back later.

Eric goes down to the pub and meets Janet who has also seen the advertisement. She asks whether Eric will accept £480. Eric says that he will. When Eric gets home, David calls back to say that he will pay Eric £500.

Prepare a note from which to advise Eric whether he can sell the hi-fi to David. You must deal with each action and its effects.

(15 marks)

- 8 Your client has obtained an order for a fixed sum to be paid by way of damages from a defendant resident in England. Briefly outline the steps your client should take to obtain that money. What remedies are available to your client in the event that the defendant fails to pay?

(15 marks)

9

- a) Jennifer is intending to operate business making and selling furniture. Advise her on her liabilities if she were to operate as
- i) a sole trader
 - ii) as a company.
- b) Would it make any difference to Jennifer’s liabilities if she were to operate the business jointly with Carol?
- c) Peter intends to invest in Jennifer’s business. However, he does not wish to get involved in the day to day running of the business. From Peter’s point of view, what is the best way for Jennifer to run her business?
- d) Explain to Jennifer and Carol what steps should be taken to set up a company.

(15 marks)

10

- a) For each of civil and criminal proceedings, identify
- i) who has the burden of proof
 - ii) the standard of proof.
- b) What is hearsay evidence? Outline the rules for admitting hearsay evidence in High Court proceedings.

(15 marks)

