

THE JOINT EXAMINATION BOARD
COMMON FOUNDATION LEVEL
BASIC ENGLISH LAW

13th November, 2001

3.00 p.m – 5.00 p.m.

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

1. You should attempt **four** questions from Part A and **four** questions from Part B. The number of marks allotted to each question is placed in brackets at the end of the question.
2. Where a question permits, reasons should be given for the conclusions reached.
3. Unless specifically requested answers are NOT required in letter form.
4. Write on **one** side of the paper only using BLACK ink. You must **NOT** staple pages together.
5. 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. You must **NOT** state your name anywhere in the answers.
6. **NO** printed matter or any other written material of any kind 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 the envelope provided.

THIS PAPER CONSISTS OF FIVE PAGES INCLUDING THIS PAGE

BASIC ENGLISH LAW PAPER
13 NOVEMBER 2001

Part A

1. Discuss the advantages and disadvantages of operating a business as:
 - a. an incorporated company; and
 - b. a partnership.

(10 marks)

2. Explain the doctrine of precedent and how it affects the English Civil Courts.

(10 marks)

3. Your client has been served with proceedings for design right infringement in the High Court. Explain the roles played, if any, by the following people in defending the action against your client:
 - a. Solicitor;
 - b. Barrister;
 - c. Judge.

(10 marks)

4. Explain the function of the European Court of Justice in relation to the English court system.

(10 marks)

5. What are the effects of and differences between “without prejudice” and “legal professional privilege”.

(10 marks)

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Part B

6. Edina has just passed her driving test only 3 months after her 17th Birthday. To celebrate she decides to buy a car and sees an advertisement in the local paper saying :
- “Golf for sale, one careful owner, 42,000 miles, £5,000. Call Patsy 888 1111”
- Edina calls Patsy and is told the car is still for sale. In a panic of excitement Edina says “I’ll give you £5,000 and I’m coming now!”.

Before Patsy can answer Edina puts the phone down and heads for Patsy’s house. On Edina’s arrival, some 30 minutes later, Patsy has sold the car.

- a. Does Edina have a valid contract with Patsy? Provide reasons for your answer.
- b. Assuming there is a valid contract what remedies would be available to Edina?

(15 marks)

7. (a) What is meant by an interim injunction?
- (b) What is its effect?
- (c) What must a Claimant prove to obtain an interim injunction?

(15 marks)

8. Angus has successfully been in business for 5 years selling an exclusive range of leather luggage. He has built up a reputation in his goods, particularly because the leather he uses comes from his father's farm which has been approved by the Humane Leather Society.

a. His neighbour, Daisy, has seen Angus' success and decides to establish a competing business. Unfortunately Daisy does not make many sales and so she embarks on a short advertising campaign. Angus is angered by the advertisements and seeks your advice as to whether he has any legal rights in respect of the following advertisements. For the purposes of this question you are to disregard any trade mark or passing off issues.

Advert 1: Come to Daisy's Luggage for exclusive leather luggage. Just next door to Angus' Leather.

Advert 2: Daisy's Luggage – It's just like Angus' Leather only superior quality!

Advert 3: Daisy's Luggage – We only make our luggage from humane sources, unlike Angus' Leather who use hides from electrocuted cows!

b. Would it make any difference to your answer if Daisy honestly believed the advertisements to be true?

(15 marks)

9. a. What is meant by a Tort?
b. Explain the essential elements necessary to prove negligence. (Your answer should include an explanation of each element.)

(15 marks)

10. a. Your long term client, Richard, has instructed you to prepare and file several overseas intellectual property applications and has given you £5,000 on account. What are your professional obligations to the client in holding that money?
- b. Richard has also recently discovered that James has been infringing his intellectual property rights and wants you to assist him. However, you recently began working for James in respect of his own intellectual property filing programme. What professional conduct points need to be considered in this situation and why?

(In relation to parts a and b above, state which professional code of conduct you are applying. NO MARKS WILL BE AWARDED FOR THIS QUESTION unless you state which code.)

(15 marks)