



UNIVERSITI KUALA LUMPUR BUSINESS SCHOOL

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FINAL EXAMINATION
JANUARY 2016 SEMESTER

SUBJECT CODE : EIB 20303
SUBJECT TITLE : BUSINESS LAW
LEVEL : BACHELOR
TIME / DURATION : 2:00 PM - 5:00 PM (3 HOURS)
DATE : 24 MAY 2016

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INSTRUCTIONS TO CANDIDATES

1. Please read the instructions given in the question paper CAREFULLY.
2. This question paper is printed on both sides of the paper.
3. ANSWER FOUR (4) QUESTIONS ONLY.
THREE (3) questions from PART A and ONE (1) question from PART B.
4. Candidates are allowed to bring the following:
 - i) Federal Constitution
 - ii) Civil Law Act 1965
 - iii) Contract Act 1950
 - iv) Partnership Act 1961
 - v) Companies Act 1965
 - vi) Employment Act 1955
5. Please write your answers on the answer booklet given.
6. All questions must be answered in English (any other language is not allowed).
7. This question paper must not be removed from the examination hall.

THERE ARE FOUR (4) PAGES OF QUESTIONS, EXCLUDING THIS PAGE.

INSTRUCTIONS:

Answer FOUR (4) questions only.

THREE (3) questions from PART A and ONE (1) question from PART B.

Please use the answer booklet given.

PART A

Question 1.

Section 3(1) of the Civil Law Act 1956 (Revised 1972) provides that, in Peninsular Malaysia, the courts shall apply the common law of England and the rules of equity as administered in England on 7 April 1956. Whereas, in Sabah and Sarawak, the courts shall apply the common law of England and the rules of equity, together with statutes of general application, as administered or in force in England on 1 December 1951 and 12 December 1949 respectively.

Discuss the above said statement with specific references to the provisions of the relevant section in the Civil Law Act 1956 (Revised 1972) and support your answer with two (2) decided cases where judges gave their opinions on the subject.

(25 marks)

Question 2.

Parliament makes statutes law and it is the duty of the courts to give effect to them if properly enacted. While courts may rule that a particular statute or section of the statute is not valid for various reasons such as unconstitutionality, they cannot say "we shall change this Act because it is not appropriate". That function belongs to Parliament. When the law is properly enacted, the function of the courts is to interpret that law. Judges are duty bound to give effect to the meaning of the words of the statute. They should not concern themselves with matters of policy which are the prerogative of Parliament. Thus, over the years the Court have developed a number of rules of interpretation to ascertain the intention of Parliament when Parliament passes the Act. The rules of interpretation includes the literal rule, the ejusdem generis rule, the golden rule and the mischief rule.

Explain and discuss the above mentioned rules.

(25 marks)

Question 3.

An offer or proposal is something capable of being converted into an agreement when it is accepted by the other party. It must be a definite promise to be bound provided certain specified terms are accepted. The promisor must have declared his readiness to undertake an obligation upon certain terms, leaving the option of its acceptance or refusal to the promisee, the person to whom the offer is made. However, in a certain circumstances, the promisee may make a bargain to the original proposal made by the promisor and the court then will have to decide whether the bargain made by the promisee is a counter proposal (counter offer), and if so, it terminates the original proposal or offer.

Evaluate the distinction between offer and counter-offer and support your discussion with decided cases.

(25 marks)

Question 4.

The duties of the agent towards the principal depend on the express or implied terms of the contract of agency. When an agent agrees to perform services for his principal for reward there is a contract between them. But even if the agent undertakes his duties without reward, he has obligations to his principal. In the circumstances where there is no contract of agency between the agent and his principal, Contracts Act 1950 laid down certain duties of an agent towards his principal.

Explain and discuss the duties of an agent under the Contract Act 1950.

(25 marks)

Question 5.

The relationship between partners is based on an agreement that they have with one another. This agreement may be made orally or in writing. Rights of partners must be expressly stated in the partnership agreement. In situations where there is no express agreement as to the rights of a partner on matters relating to Right to share profit, loss and capital; Right to be indemnified against liability incurred in performing the business of the firm; Right to an interest on the sum advanced to the firm; Right to an interest on capital contributed; Right in managing the firm; Right to remuneration; Right to introduce a new partner; Differences as to ordinary matters; Right to have access to the partnership books; the provisions of Section 26 of the Partnership Act 1961 will be applicable to the partners.

Discuss.

25 marks

Question 6.

Directors are those who are entrusted to manage a company. Since they are given a broad power in the management of a company, law imposes certain duties upon them, in the interest of the public good and for the protection of those who invest money in the company. Thus, it is proper to say that the directors stand in a fiduciary relation to the company and all powers entrusted to them are only exercisable in this fiduciary capacity.

Examine the fiduciary duties of the directors and support your answer with relevant provisions of the Companies Act 1965 and decided cases.

(25 marks)

PART B

Question 1.

Man established a sole proprietorship motorcycle crop spraying business since he left school at the age of 18 year old. Man then married Min and together they formed a company known as ManMin Sdn Bhd where he held 2999 shares of the company's 3000 shares and Min held the other 1 share. Man and Min was also the governing director of the company. Man then applied the position of rider in the company and became the chief rider in the company. His work was to spray fertilizer from the modified motorcycle provided by the company. Every months Man received salary from the company and the company also contributed to his employee provident fund and other statutory

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requirements and also insured the employee under the company's special workmen compensation scheme. One day, the motorcycle he was riding crashed and Man died as a result. His wife made a claim from the insurance company on behalf of her deceased husband. The insurance company refused to pay because it considered that Man and the company were one of the same. The company argued that a person cannot be both a director and major shareholder of a corporation on the one hand, and also an employee of the corporation on the other.

Advice Min on the effect of incorporation under Section 16(5) of the Companies Act 1965 and support your answer with decided cases.

(25 marks)

Question 2.

Papa, a lorry driver, will enter into a contract with BabyJane Sdn Bhd ("the Company") under which he will drive his lorry only for the Company, obey the Company's officer instruction and wear the Company's uniform. Papa is required to provide his own lorry and the lorry will be painted in the Company colours. Under the agreement, Papa could employ substituted driver. Papa will pay the expenses of repair and maintenance of the lorry and his own insurance and income tax. Papa will be paid by the company on the basis of mileage and the number of trips he makes for the Company. Papa is ignorant about the law and seek your advice whether his contract with the Company is the contract for service or a contract of service.

Advice Papa and support your answer with decided cases.

(25 marks)

Total: 100 Marks

END OF QUESTION PAPER

