

Candidates are admitted to the examination room ten minutes before the start of the examination. On admission to the examination room, you are permitted to acquaint yourself with the instructions below and to read the question paper.

Do not write anything until the invigilator informs you that you may start the examination. You will be given five minutes at the end of the examination to complete the front of any answer books used.

May/June 2010

**LW1A06 2009/10 A 001
LW1ELB 2009/10 A 002**

Multiple Choice Answer Sheet
1 Answer Book
Dictionaries Permitted

UNIVERSITY OF READING

**INTRODUCTION TO BUSINESS LAW (LW1A06)
or
ESSENTIALS OF LAW AND BUSINESS: PAPER II (LW1ELB)**

One and a half hours

**SECTION A: Answer ALL the multiple choice questions in Section A on the ANSWER SHEET provided, by crossing through one of (a) or (b) or (c) or (d).
[50% of mark]**

**SECTION B: Answer FIVE questions. Only short answers (of no more than a few brief paragraphs) are required.
[50% of mark]**

SECTION A

- 1-1. Which one of the following is **NOT** an agent in law?
- (a) An estate agent.
 - (b) An auctioneer.
 - (c) A child sent to run an errand at the local convenience store by his or her parent.
 - (d) A self-employed salesperson who has bought stock from his or her supplier and is selling it door to door.
- 1-2. In which one of the following cases will there be an agency of necessity?
- (a) Where the principal has requested the agent to buy necessities, such as food.
 - (b) Where someone may have to act on behalf of another and it would be difficult to obtain instructions from that other person.
 - (c) Where someone may have to act on behalf of another and it would be impracticable to obtain instructions from that other person.
 - (d) Where an agent decides that it is necessary to exceed his or her express instructions in order to protect the interests of the principal.
- 1-3. Which one of the following is **NOT** a fiduciary duty owed by an agent?
- (a) A duty not to make a secret profit from a transaction.
 - (b) A duty not to allow a conflict of interest to arise with the interests of the principal.
 - (c) A duty not to accept remuneration from the principal even if it is offered.
 - (d) A duty not to misuse confidential information.

- 1-4. Which one of the following statements best describes the role of an agent in English Law?
- (a) An agent has the right to bring about a contract between his or her principal and a third party.
 - (b) An agent is entitled to have the exclusive right to represent his or her principal in a particular geographical area.
 - (c) An agent is entitled to have the exclusive right to represent his or her principal in a particular aspect of the principal's business.
 - (d) An agent must ensure that his or her principal has as much publicity in the press and other media as possible.
- 1-5. Which one of the following statements is true?
- (a) A public company need have only one director.
 - (b) The name of a public company cannot end with the word "limited" (or "Ltd").
 - (c) A public company's shares must be quoted on the stock exchange.
 - (d) A public company's shares must be offered for sale to the public.
- 1-6. Which one of the following was **NOT** an objective of the Companies Act 2006?
- (a) To reduce the burden of bureaucracy on private companies.
 - (b) To abolish the need for a company to have a Memorandum of Association.
 - (c) To codify the duties of directors.
 - (d) To make it easier for a company to communicate with its members by e-mail.
- 1-7. Which one of the following statements about the Limited Liability Partnership (LLP) is **NOT** true?

- (a) The LLP was designed mainly for large professional partnerships.
 - (b) An LLP is similar to a limited company so far as its dealings with the outside world are concerned, but more closely resembles a partnership regarding the relationship of its members with each other.
 - (c) An LLP must have a written agreement governing the members' business relationship with each other.
 - (d) The members of an LLP are, broadly speaking, treated as individuals for taxation purposes.
- 1-8. Which one of the following pieces of information is **NOT** required to be included in an application to register a new company?
- (a) Whether it is intended for the company to be quoted on the Stock Exchange.
 - (b) Whether the company is to be public or private.
 - (c) Where the registered office of the company is to be.
 - (d) Who the proposed officers of the company are to be.
- 1-9. A company director stands in a fiduciary position to the company. Which one of the following statements is **NOT** true about the fiduciary duties of directors?
- (a) The directors must exercise their powers for the benefit of the company as a whole.
 - (b) There must be no conflict between the directors' interests and the interests of the company.
 - (c) The directors must show an appropriate amount of care and skill to the company.
 - (d) All directors are required to show the same level of care and skill in attending to the affairs of the company.

1-10. “Perpetual succession” in the context of Company Law means (choose one statement):

- (a) Shares in the company can pass by inheritance.
- (b) A director may be entitled to nominate a member of his or her family to take up the directorship on his or her death.
- (c) A company will be treated as the owner of the assets of the company regardless of any changes in the identity of the members of the company.
- (d) If one company is wound up, the liquidator can transfer its undertaking to another company.

1-11. In patent law, how do we determine obviousness?

- (a) From the patent register.
- (b) From the standpoint of the average user of a patented invention.
- (c) From the standpoint of the average person skilled in the art.
- (d) By using common sense.

1-12. In passing off, which of these cases established one of two possible tests used to determine if a claimant has a cause for passing off?

- (a) *Warnink v Townend* (the Advocaat decision) (1979)
- (b) *Montgomery v Thomson* (1891)
- (c) *Reddaway v Banham* (1986)
- (d) *Lyngstad v Annabas* (1977)

1-13. Which of the following is **NOT** a defence to trade mark infringement?

- (a) The use by a person of their own name or address where this is done in accordance with honest practices.
- (b) The use of a registered trade mark in a comparative advertisement for the purpose of identifying goods or services as those of the proprietor of the trade mark or a licensee.
- (c) The use of a trade mark on products obtained by parallel importation from a country outside the European Union.
- (d) The use by a person of a trade mark where it is necessary to indicate the intended purpose of a product or service, where this is done in accordance with honest practices.

1-14. In copyright law, which of the following statements, in relation to the subject matter of copyright, is **NOT** true?

- (a) Names and titles are protected by copyright as literary works.
- (b) There is little opportunity for UK courts to recognise new forms of subject matter of copyright, other than through the creative interpretation of the existing categories of works.
- (c) Computer programs are protected by copyright as literary works.
- (d) The Copyright Designs and Patents Act provides an exhaustive list of eight categories of works that may be protected by copyright law.

1-15. Which one of the following tests was introduced in order to help decide the employment status of agency and casual workers where it is in dispute?

- (a) The "opportunity for profit" test.
- (b) The "own uniform" test.
- (c) The "financial risk" test.
- (d) The "mutuality of obligation" test.

1-16. Which of the following is **NOT** a necessary criterion to qualify for the right to claim unfair dismissal?

- a) The status of employee.
- b) There was a dismissal (that is unfair).
- c) The claim was lodged at an Employment Tribunal within three months of the effective date of termination.
- d) The claimant is under the normal retirement age.

1-17. When might a contract of employment become frustrated?

- (a) When an employee is imprisoned.
- (b) When an employee is promoted and gives notice.
- (c) When an employer dismisses an employee for misconduct.
- (d) When a fixed term contract comes to an end and is not renewed.

1-18. Wrongful dismissal is a common law action for breach of contract. When does it occur?

- (a) When the employer dismisses an employee without good reason.
- (b) When an employee has no alternative but to leave his/her employment due to the poor conduct of his/her employer.
- (c) When there is a redundancy situation and no time to consult with the employees.
- (d) When the employer terminates the contract without notice, or with inadequate notice, and is not justified in doing so.

1-19. What is the time limit for bringing an action for unfair dismissal to an employment tribunal?

- (a) Three months.
- (b) Six months.
- (c) One year.
- (d) Six years.

1-20. Which one of the following statements is **NOT** true?

- (a) There is no single test which is capable of distinguishing an employee from an independent contractor.

- (b) The question as to whether or not a worker is an employee is, in all but exceptional cases, a question of fact, rather than a question of law.
- (c) Where an employer has no obligation to employ a casual worker, and the worker has no obligation to accept work offered, the worker is unlikely to be regarded as an employee when not actually working.
- (d) Independent contractors are never protected by employment legislation.

SECTION B

Answer **FIVE** questions from this section

- 2. In what circumstances may an agency relationship be created by a principal ratifying the actions of an agent?
- 3. What are the main legal duties owed by an agent to a principal?
- 4. Answer both part (a) AND part (b).
 - (a) Explain what is meant by the "issued capital" of a company.
 - (b) Explain what liabilities may attach to someone who buys a share which has been "partly paid up".
- 5. Explain the differences between a company which is limited by shares and a company which is limited by guarantee. When might the promoters of a company prefer one, and when might they prefer the other?
- 6. Explain what is meant by a "derivative claim" against a company, and how it operates.

7. What is meant by "lifting the veil"? Give the facts of an example where the refusal of the court to lift the veil benefited the main shareholder in a company, and an example where it worked against him or her.
8. In patent law, what are the various elements that a patent application should contain?
9. In trade mark law, what are the criteria for a successful graphical representation according to the European Court of Justice?
10. "The acquisition of employment rights under employment law is dependent upon the status of the individual concerned." Discuss, making specific reference to the tests which are used to draw the main distinctions.
11. The contract of employment, regarded as the "cornerstone" of the employment relationship, is made up of express and implied terms. Give three examples of express terms you would expect to find in a contract of employment. Give three examples of implied terms owed by an employer. Give three examples of implied terms owed by an employee. Can employers vary the terms of a contract without informing their employees?

(End of Question Paper)