

THE JOINT EXAMINATION BOARD  
COMMON FOUNDATION LEVEL  
BASIC ENGLISH LAW

15th NOVEMBER, 2000

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 room.
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.

This paper consists of **four** pages including this page

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**PART A**

1. Identify three of the major sources of English Law and for each one explain how it is created and by whom.  
(10 Marks)
2. (a) Your client's design application has just been granted. She now wants to exploit her rights and wishes to incorporate a new company. Explain to your client what requirements are necessary to incorporate a new company.  
  
(b) Your client's bank manager has recently talked about fixed and floating charges. Briefly explain what these terms mean and how they are different.  
(10 Marks)
3. Explain what is meant by the principle of "Privity of Contract" and its effect. Your answer should also identify any exceptions to the principle.  
(10 Marks)
4. Briefly outline the hierarchy of the English civil court structure, including an explanation of the rights of appeal.  
(10 Marks)
5. List what essential elements are necessary to establish the tort of negligence. Your answer should include a brief explanation of each element.  
(10 Marks)

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### PART B

6. On Monday your client, Arthur, telephones to explain he wants you to file a registered design application this week. He asks what your service charge is for filing an application, to which you respond £100 plus VAT excluding official fees. Arthur explains he is still thinking about the application and will get back to you.

On Tuesday your partner tells you that your service charge has been increased to £250 plus VAT.

On Wednesday, Arthur calls to instruct you to file his application and you explain the charge has increased. Arthur is upset at this and threatens to sue for breach of contract.

- (a) Is there a contract between your firm and Arthur? Your answer should include an assessment of the essential elements required for the formation of a contract.
- (b) Would your answer to (a) above differ if on Wednesday, without telling Arthur about the increase in your service charge, you agreed to file his application? Give reasons for your answer.

**(15 Marks)**

7. (a) Explain the difference between "without prejudice" and "privilege".
- (b) Explain what the effects are of conducting correspondence on a without prejudice basis, when such correspondence would be used and why and how the status of without prejudice arises.

**(15 Marks)**

8. Richard recently paid Pauline £50,000 for her copyright in a new computer program she had just completed. They did not put anything in writing but Richard now wants to sell the software to a software house called MacMicro who have asked for evidence of ownership. He has asked for your help.

- (a) What, if any, legal and equitable rights does Richard have in the copyright? Give reasons for your answer.
- (b) What can Richard do to improve his position?

**(15 Marks)**

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9. What is Malicious Falshood and what are the essential elements necessary to prove the tort? Your answer should include a brief explanation of each element.

**(15 Marks)**

10. (a) Your client wishes to prevent a reputable well-known high street chain from offering goods for sale which infringe the client's registered intellectual property rights. Briefly explain what immediate relief may be available to prevent the sale of such goods.

(b) Briefly explain what your client must prove in order to obtain such relief.

**(15 Marks)**