



SCHOOL OF HOSPITALITY AND TOURISM  
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FINAL EXAMINATION  
SEMESTER JANUARY 2015

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COURSE	:	INNKEEPERS LAW
COURSE CODE	:	HIL 7163
TIME / DURATION	:	9.00 AM – 12.00 PM (3 HOURS)
DATE	:	7 MAY 2015

**INSTRUCTION TO CANDIDATES**

1. This examination paper consists of **FOUR (4) Parts**:
  - Part A (20 Marks)
  - Part B (20 Marks)
  - Part C (30 Marks)
  - Part D (30 Marks)
2. Answer **ALL** questions.
3. Candidates are not allowed to bring any material to examination room **EXCEPT** with the permission from invigilator.
4. Please check to make sure that this examination pack consist of:
  - i. Question paper
  - ii. OMR form
  - iii. Answering Booklet

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**THERE ARE 11 PAGES OF QUESTIONS, INCLUDING THIS PAGE**

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**SECTION A (Total: 20 marks)****MATCHING****INSTRUCTION: Answer ALL questions.****Please use the answer booklet provided.**

Federal System	Coercion	Acceptance	Breach Of Duty	Legal System
Custom	Offer	Safe Custody	Inkeeper	Product Liability
Constitution	Consideration	Duty Of Care	Right Of Lien	Prima Facie
Negligence	Foreseeability	Common Law	Counter Offer	Jurisdiction
Trade Description	Food Injurious To Health	Halal Certificate	Adulterated Food	Licensed Tourist Guide
Travel Agent	Merchantable Quality	Sale By Sample	Voidable Contract	Capacity To Contract

1. \_\_\_\_\_ is a legal principles laid down by the courts, as opposed to laws passed by Parliament.
2. \_\_\_\_\_ is a practice that has been accepted over a long period and generally followed.
3. \_\_\_\_\_ is a system of government where power is divided between the central government and state governments.
4. When we say that "Malaysia follows the common law tradition", it means that our \_\_\_\_\_ adopts the English model.
5. \_\_\_\_\_ is an offeree's agreement (either expressly or through conduct) to be legally bound by the offer.
6. \_\_\_\_\_ refer to person's legal competence to enter into a contract.
7. \_\_\_\_\_ is a promise (either made expressly or inferable from conduct) that is legally binding if it is accepted.
8. \_\_\_\_\_ is a contract that can be cancelled at the option of one party.
9. \_\_\_\_\_ refer as procuring a party's agreement to a contract through use of or threats from the use of unlawful acts.

10. Where the defendant has a duty of care towards the plaintiff and he fails to live up to the standard, he has \_\_\_\_\_.
11. \_\_\_\_\_ is a person or business entity that runs establishments where accommodation is offered for money.
12. \_\_\_\_\_ means that in the context of innkeepers, an inn's services of accepting a guest's personal property for safekeeping
13. \_\_\_\_\_ refer to a sale with an implied condition that the goods sold correspond to the sample shown to the buyer.
14. \_\_\_\_\_ is the implied condition that goods must conform to certain minimum standard.
15. \_\_\_\_\_ refer to person or company that sells the tour packages or travel of other companies for a commission.
16. A \_\_\_\_\_ is under Section 21 of the Tourism Industry Act 1992.
17. \_\_\_\_\_ is the food that has been mixed, diluted or otherwise tampered with that its nutritive value or quality is affected.
18. \_\_\_\_\_ is the area of law in which manufacturers, suppliers, retailers and others are held responsible for the injuries that their products cause.
19. A \_\_\_\_\_ is issued by an authorized body confirming that a food or other product is suitable for the consumption or use by Muslims.
20. \_\_\_\_\_ refers to food that contains any substance that is poisonous, harmful or otherwise injurious to health

**SECTION B (Total: 20 marks)****MULTIPLE CHOICE QUESTIONS****INSTRUCTION : Answer ALL questions.****Please use the OMR sheet provided.**

1. The main function of the \_\_\_\_\_ is to decide cases based on existing law.
  - A. parliament
  - B. judiciary
  - C. executive
  - D. magistrates
  
2. What is statute mean?
  - A. Laws made by the Minister
  - B. Laws enacted by Parliament
  - C. Cases that lay down important principles
  - D. A court decision
  
3. The \_\_\_\_\_ generally hears cases where the claim exceeds RM 1,000,000 (except motor vehicle accidents, landlord and tenant and distress).
  - A. Federal Court
  - B. High Court
  - C. Magistrates' Court
  - D. Sessions Court
  
4. \_\_\_\_\_ refer to the powers of a court.
  - A. Original Jurisdiction
  - B. Jurisdiction
  - C. Subordinate Courts
  - D. Superior Courts
  
5. Display of goods on a shop window is known as \_\_\_\_\_.
  - A. unilateral offer
  - B. bilateral offer
  - C. invitation to treat
  - D. postal acceptance rule

6. There is no \_\_\_\_\_ if an offeree introduces his own terms, for example, by stating a different price
- A. offer
  - B. consideration
  - C. acceptance
  - D. capacity
7. According to \_\_\_\_\_, when someone is willing to give value for a promise, it shows that he takes the deal seriously and intends to be bound by it.
- A. intention to create legal relations
  - B. capacity to contract
  - C. consideration
  - D. acceptance
8. When we say that two parties have the \_\_\_\_\_, it means that they intend to be legally bound by the agreement.
- A. capacity to contract
  - B. consideration
  - C. intention to create legal relations
  - D. offer
9. A contracting party may claim that his consent was obtained due to any of these vitiating factors **EXCEPT**
- A. Frustration
  - B. Coercion
  - C. Undue Influence
  - D. Fraud
10. A \_\_\_\_\_ is such statement or assurance that is untrue
- A. misrepresentation
  - B. mistake
  - C. coercion
  - D. undue Influence

11. Where both the parties made a mistakes concerning fact essential to the agreement, the agreement is \_\_\_\_\_.
- A. void
  - B. voidable
  - C. valid
  - D. invalid
12. When we say that a defendant owed a plaintiff a \_\_\_\_\_, it means that the defendant was under an obligation to be careful towards the plaintiff.
- A. Duty of care
  - B. Breach of duty
  - C. Proof of causation
  - D. Damage not remote
13. When a defendant raises \_\_\_\_\_, he is saying that the plaintiff consented or voluntarily assumed the risk of injury.
- A. damages
  - B. injunction
  - C. contributory Negligence
  - D. volenti Non Fit Injuria
14. \_\_\_\_\_ is under a duty to provide reasonable food and drink at the request of travellers.
- A. Business owner
  - B. Tourist
  - C. Guest
  - D. Innkeeper
15. Which one of the following answer are **NOT** duties of an innkeeper?
- A. Duty to provide accommodation
  - B. Duty to provide services in a non-discriminatory manner
  - C. Duty to record guest's information
  - D. Duty to recover all guest damages

16. Section 5(2) of the Tourism Industry Act 1992 provides that a travel agent or tour operator must be licensed by the\_\_\_\_\_.
- A. Tourism Enterprises
  - B. Tourism Training Institution
  - C. Tourist Accommodation Premises
  - D. Commissioner of Tourism
17. SOGA applies to contract of\_\_\_\_\_.
- A. Food Service and Consumer
  - B. Travel Agent and Customer
  - C. Innkeepers and Guest
  - D. Sale and Agreement to sell
18. An agent \_\_\_\_\_ has the following duties towards his principles **EXCEPT**
- A. To exercise his duty with care and skill
  - B. Not to let his interest conflict with his duty
  - C. To personally perform the agreed tasks
  - D. Disclose confidential information entrusted to him by the principles
19. A consumer could also sue a food provider under \_\_\_\_\_ law.
- A. Negligence
  - B. Offence
  - C. Consumer Protection
  - D. Product Liability
20. A food provider defendant charged under the Trade Description Act 2011 may plead one or more of the following defences **EXCEPT**
- A. Offences due to fault of another person
  - B. Defence of personal or domestic use
  - C. Defence of mistake, accident
  - D. Defence of nature or designation



**SECTION C (Total: 30 marks)**

- INSTRUCTION** : There is ONE (1) question in this section. (COMPULSORY)  
: Answer the SOLELY questions.  
: Provide as much information for the given question.  
: Please use the answer booklet provided

**Case 1:**

Mr Olaf and his family spent their holiday in Johor and stayed at Hotel Awana Puri, the tallest building in Johor Bahru.

On a hectic Monday morning, Cik Kiah, the housekeeping staff was getting ready to clean and mop the lobby area when she discovered that the caution sign "BE CAREFUL, WET FLOOR, CLEANING IN PROGRESS" was not in her cleaning cart. Too busy and lazy to get the caution sign from the store room, she continued to mop the lobby area but she would verbally warn any guest that walked past her that the floor was wet. Mrs Olaf, however was walking behind Cik Kiah and suddenly fell on the wet floor and broke both arms.

Meanwhile, Mr Olaf who was unaware of the incident in the lobby decided to bungee-jump from the top floor of the hotel. He secretly went to the top floor with his bungee jumping equipment and tied his bungee rope around the hotel's water pipe. He jumped down and the water pipe broke. Mr Olaf landed on the hotel's pavement and broke both legs.

The hotel management asked for your advice on both incidents.

**Case 2:**

Mr Bukhary operates a small convenient store which sells, among other things, cigarettes, chocolates and liquor, inside Hotel Kijal Malai, Johor Bahru. A teenage boy entered the store and selected several packs of cigarettes and bottles of liquor from the shelves and put them in a shopping basket. Mr Bukhary was not aware of this as he was sitting at the cashier's counter at the store's entrance.

Suddenly several officers from the Kementerian Perdagangan Dalam Negeri and Hal Ehwal Pengguna showed up and accused Mr Bah of committing an offence by selling cigarettes and liquor to an under age person.

Mr Bukhary asked for your advice.

(Total: 30 marks)

**SECTION D (Total: 30 marks)****LONG ESSAY****INSTRUCTION : Answer TWO (2) questions only from this section.****Please use the answer booklet provided.****QUESTION 1**

Mr Kristoff, a long term guest at Hotel Princess, Johor Bahru is a very good swimmer. Every evening, Mr Kristoff would take a swim at the hotel's swimming pool in the presence of the life-guard on duty.

On a quiet Saturday evening, Mr Kristoff took his usual dip in the pool and was swimming actively. Knowing that Mr Kristoff is a good swimmer, Mat Bond, the life-guard left his guard-post to visit the toilet.

When Mat Bond came back from the toilet, he saw Mr Kristoff's body lying at the bottom of the pool. Mat Bond immediately performed CPR and Mr Kristoff was immediately sent to the hospital. It was found out that Mr Kristoff suffered stroke during the swim and was almost drown.

Mr Kristoff planned to sue the hotel for endangering his life. The hotel management requested for your advice.

(15 marks)

**QUESTION 2**

Omar Gates, a computer genius refused to sit for his PMR exam and left school last year and set up his own home-based computer and software business. He contacted Hotel Berry Inn (hereinafter referred to as "the Hotel") and offered to supply 10 Hewlett-Packard computers complete with business software for the Hotel's new business centre for the price of RM80,000. The Hotel management was very impressed with the software developed by Omar Gates and wrote their letter of acceptance, accepting the offer.

In the mean time, Ekiah Sdn Bhd, a furniture supplier also contacted the Hotel and offered to supply 10 computer tables and chairs to furnish the Hotel's business centre. In their letter of offer, they stated that the price for the computer tables and chairs were "to be negotiated between the parties". The Hotel also wrote a letter of acceptance, accepting the offer.

Advise the Hotel on both transactions.

(15 marks)

**QUESTION 3**

Steve and Elsa went to Langkawi Island for their honeymoon. They booked a two night stay at Terrace Hotel. When they entered their room, they noticed a strong chemical smell. Elsa was allergic to many things, including chemicals. She called the front desk and asked for a room change. The manager, Peter Parker, said that they had just cleaned the carpet and that the smell would disappear soon. Elsa explained about her allergies and that she was worried that the chemical might trigger her allergies. Peter Parker replied that a room change was not possible as the Hotel was fully booked.

That evening, Steve and Elsa dined at the hotel's restaurant. Elsa left her purse at the restaurant table and did not realize this until they returned to the room. They went back to the restaurant to search for the purse. They did not find it. Elsa accused the restaurant staff of stealing her purse.

On the second day, Elsa noticed rashes on her skin. She went to a clinic. In the doctor's opinion, the rashes were probably allergic reactions to some kind of chemicals. When Elsa returned from the clinic, she discovered that her baggage was missing. In the baggage was a jewellery case containing her engagement ring. Elsa was extremely upset and demanded that the Hotel compensate her for the loss of the engagement ring and other contents of the baggage.

Answer the following questions:

- a) Can Elsa sue Terrace Hotel in respect of her skin allergy?
- b) Can Elsa sue Terrace Hotel for the loss of her purse?
- c) Is Terrace Hotel liable for the loss of Elsa's baggage?

(15 marks)

**QUESTION 4**

Sofea and Amber signed up for a diving tour package with Jentayu Tours. Prior to the dive, Sofea was given an oxygen cylinder that was near empty. As a result, Sofea's oxygen cylinder ran out during the dive. With the help of the diving instructor and Amber, Sofea was brought back from the water to the boat. Sofea suffered from asthma – she was more affected by insufficient flow of oxygen compared to an ordinary person. At the hospital, the doctor informed Amber that the lack of oxygen had caused Sofea permanent brain damage.

Answer the following questions:

- a) Can Amber bring an action against Jentayu Tours on Sofea's behalf?
- b) Would your answer be different if Jentayu's standard booking contract contains a clause excluding its liability for all losses, including death or personal injury negligent caused?

**(15 marks)**

**QUESTION 5**

Consider whether the following practices as regards certification of *halal* food are lawful.

- a) Infinity Sdn Bhd was the importer of mutton from India. The mutton was certified as *halal* by an Indian *halal* certification authority. However, that authority is not recognized by the Department of Islamic Development Malaysia (JAKIM).
- b) Caviar Sdn Bhd was a jam producer. It has obtained *halal* certification in respect of all its food products. Recently, Caviar purchased gelatine from a different supplier. The gelatine was stated as derived from bovine, but not certified as *halal*.
- c) Vertical Sdn Bhd processes fish products. It did not think that its products could possibly be non-*halal* and had not bothered to obtain *halal* certification. Instead, Omega applied the *halal* logo on all its products.

**(15 marks)**

**END OF QUESTION PAPER**



