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FINAL EXAMINATION

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COURSE NAME : LEGAL ASPECTS IN HOSPITALITY  
INDUSTRY  
COURSE CODE : DHM 3123  
EXAMINATION : OCTOBER 2018  
DURATION : 3 HOURS

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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. Candidates are not allowed to bring any material to the examination room except with the permission from the invigilator.
3. Please check to make sure that this examination pack consists of:
  - i. Question Paper
  - ii. Objective Answer Paper
  - iii. Answer Booklet

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DO NOT TURN THIS PAGE UNTIL YOU ARE TOLD TO DO SO

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*This examination paper consists of 11 printed pages including the front page*

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## PART A

This part contains TWENTY(20) questions.

Answer ALL in the Objective Answer Paper.

1. The monetary jurisdiction of the \_\_\_\_\_ is RM 100,000.
  - A Magistrate's Court
  - B Sessions Court
  - C Federal Court
  - D High Court
  
2. Which court hears civil appeals from the Court of Appeal?
  - A Sessions Court
  - B Industrial Court
  - C Federal Court
  - D High Court
  
3. Which of the following is enacted by the Parliament?
  - A Acts
  - B Jurisdiction
  - C Enactments
  - D Common law

4.

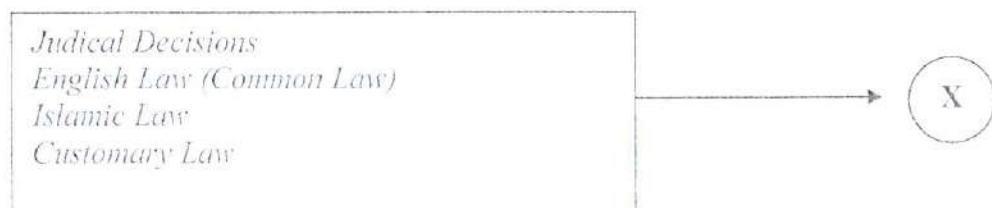


Figure 1

X refers to

- A unwritten law
- B written law
- C enactment
- D statute

5. Display of goods in a shop window is known as \_\_\_\_\_.
- A postal acceptance rule
  - B invitation to treat
  - C unilateral offer
  - D bilateral offer
6. There is no \_\_\_\_\_ when an offeree introduces his own terms, for example, by stating a different price.
- A consideration
  - B acceptance
  - C capacity
  - D offer
7. According to the principle of \_\_\_\_\_, 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 intention to create legal relations
  - B capacity to contract
  - C consideration
  - D offer
9. A contracting party may claim that his consent was obtained due to any of these vitiating factors **except**
- A undue influence
  - B frustration
  - C coercion
  - D fraud

10. A \_\_\_\_\_ is a statement or assurance that is untrue, made by a person who believes it to be true.
- A misrepresentation
  - B undue influence
  - C mistakes
  - D coercion
11. When both parties made a mistake concerning the fact essential to the agreement, then the agreement is
- A voidable
  - B invalid
  - C valid
  - D void
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 damage not remote
  - B proof of causation
  - C breach of duty
  - D duty of care

13.

*"When a defendant raises this issue, he is saying that the plaintiff consented or voluntarily assumed the risk of injury"*

Figure 2

The above statement is relating to

- A contributory negligence
- B volenti non fit injuria
- C injunction
- D damages

14. \_\_\_\_\_ is under a duty to provide reasonable food and drink at the request of travellers.
- A Business owner
  - B Innkeeper
  - C Tourist
  - D Guest

15.

- ✓ *Right to payment*
  - ✓ *Right to control the inn*
  - ✓ *Right of lien*

Figure 3

- The above statement refers to
- A limitation of innkeepers' liability.
  - B duties of innkeepers.
  - C rights of innkeepers.
  - D innkeepers liability.
16. Which one of the following provides license to travel agent or tour operator?
- A Tourist Accommodation Premises.
  - B Tourism Training Institution.
  - C Commissioner of Tourism.
  - D Tourism Enterprises.
17. \_\_\_\_\_ is a contract that is applied by SOGA.
- A Food service and consumer
  - B Travel agent and customer
  - C Sale and agreement to sell
  - D Innkeepers and guest

18. Which one of the following is tasked with the job of enforcing the Food Act 1983?
- A Ministry of Health
  - B Ministry of Consumer
  - C Ministry of Tourism Industry
  - D Ministry of Human Resource
19. \_\_\_\_\_ is the only competent body of authority that can grant halal certification to food and goods.
- A MOH
  - B TDA
  - C MAIJ
  - D JAKIM

*"The transfer of ownership to the buyer will take place at a future time or when certain requirements have been satisfied"*

Figure 4

20. The above statement is relating to
- A sale by sample
  - B contract of sale
  - C agreement to sell
  - D sale by description

[20 MARKS]

## PART B

This part contains TWENTY(20) questions.

Answer ALL questions in the Answer Booklet.

|                         |                     |                        |                         |                    |
|-------------------------|---------------------|------------------------|-------------------------|--------------------|
| unwritten law           | written law         | statutes               | contract                | acceptance         |
| misrepresentation       | agency              | negligence             | right of lien           | section 4          |
| halal certicate         | product liability   | section 2              | judicial decision       | english law        |
| jurisdiction            | voidable            | travel agent           | MATTA                   | product liability  |
| estoppel                | delegation          | SOGA                   | implied terms           | sale by sample     |
| volenti non fit injuria | tourism enterprises | accommodation premises | commissioner of tourism | immovable property |

1. \_\_\_\_\_ means portion of that Malaysian law which is not enacted by Parliament and the State Assemblies.
2. \_\_\_\_\_ means the law embodied in the Federal and State Constitution and in a form of a code or a statute.
3. Innkeepers Act 1952, Food Act 1983 and Tourism Industry Act 1992 are examples of \_\_\_\_\_ that directly affect the hospitality industry.
4. A \_\_\_\_\_ in a legal sense is an agreement that is legally binding between the parties.
5. An \_\_\_\_\_ of an offer is the expression, by words or conduct, of assent to the terms of the offer in the manner prescribed or indicated by the offeror.



6. \_\_\_\_\_ usually refers to certain kinds of untrue or misleading statements made innocently by which persons may be induced to enter into a contract.
7. An \_\_\_\_\_ relationship is created when one person (the principal) authorizes another person (the agent) to represent him or act on his behalf.
8. Agency by \_\_\_\_\_ can arise in situation where as an agent who was duly appointed has exceeded his authority.
9. \_\_\_\_\_ as a tort is the breach of legal duty to take care which results in damage, undesired by the defendant, to the plaintiff.
10. Lord Herschell in the case of SMITH V BAKER (1891) AC 325 aptly described the maxim \_\_\_\_\_ as one who has invited or assented to an act being done towards him cannot, when he suffers from it, complain of it as a wrong.
11. \_\_\_\_\_ is given to an innkeeper where he is allowed to detain any property brought by the guest into the *hospitium* of the inn should the guest fails to pay his bill.
12. Section 6 of Innkeepers Act 1952 reads that every innkeeper shall exhibit one copy of \_\_\_\_\_ of the Act in a conspicuous part of the hall or entrance to his inn.
13. Travel agent businesses, tour operator businesses and tourism training institutions are known as \_\_\_\_\_.
14. Premises that offer accommodation and services to tourists must be registered as tourist \_\_\_\_\_.
15. Travel agent or tour operator must be licensed by the \_\_\_\_\_ who is the Secretary General of the Ministry of Tourism.

16. \_\_\_\_\_ is a certificate issued by an authorized body confirming that a food or other product is suitable for the consumption or use for Muslims.
17. \_\_\_\_\_ is the area of law in which manufacturers, distributors, suppliers, retailers and others are held responsible for the injuries that their products cause.
18. \_\_\_\_\_ is a description concerning a product or service, in one or more aspects listed in the Trade Description Act 2011.
19. \_\_\_\_\_ that is, land and everything attached to the land such as building, is excluded from the Sales of Goods Act, 1957.
20. \_\_\_\_\_ of SOGA provides that future goods means "goods to be manufactured or produced or acquired by the seller after the making of the contract of sale".

[20 MARKS]

**PART C**

This part contains FIVE(5) questions. Answer THREE(3) questions only.  
Answer the questions in the Answer Booklet.

**QUESTION 1**

"There are different facets to an innkeeper's duties to their guest." Explain this statement.

(10 Marks)

**QUESTION 2**

The Tourism Industry (Licensing and Control of Tourist Guides) Regulations 1992 laid down the Code of Ethics. It is contained in the fifth schedule (Reg 11). Describe the dos and don'ts when a licensed tourist guide exercises his duties.

(10 Marks)

**QUESTION 3**

According to the First Schedule (para 4) of the Trade Descriptions (Certification and Marking of Halal) order 2011, briefly explain the offences in connection with the misuse of Halal description and / or logo.

(10 Marks)

**QUESTION 4**

The enforcement of the Food Act and Food Regulations are very important, seeing that consumers rarely bring actions against food providers under contract law or tort law. Discuss how an enforcement is carried out under the Food Act 1983.

(10 Marks)

**QUESTION 5**

The terms implied by SOGA are either conditions or warranties. Discuss the implied conditions and warranties under the Sale of Goods Act 1957.

(10 Marks)

[30 MARKS]

**PART D**

This part contains TWO (2) question. Answer ALL questions.

Answer the questions in the Answer Booklet.

**Case 1 :**

Mr Syed 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, one of the housekeeping staffs 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 warned any guest that walked passed her that the floor was wet. Mr Syed, however was walking behind Cik Kiah when he slipped and fell on the wet floor and broke both arms.

The hotel management asked for your advice.

**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 a few 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 dan Hal Ehwal Pengguna showed up and accused Mr Bukhary of committing an offence by selling cigarettes and liquor to an underage person.

Mr Bukhary asked for your advice.

[30 MARKS]

**END OF QUESTION PAPER**