

PCLL CONVERSION EXAMINATION JANUARY 2010

Title of Paper : Evidence
Date : 8 January 2010
Time : 2:30 p.m. – 5:30 p.m.

Instructions

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is a three-hour examination.
5. This is an open book examination.
6. **NO** reading time is designated for this paper.
7. This paper consists of 2 pages, including five compulsory questions. A total of 50 marks may be awarded. Candidates must answer **ALL** five questions. There is **NO** element of choice. Where a question is in two parts, all parts must be answered.
8. Each question is worth 10 marks.
9. The passing mark for this paper is 25 marks.

**DO NOT OPEN THIS QUESTION BOOK
UNTIL YOU ARE TOLD TO DO SO**

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Evidence

Question 1

A simple explanation of the term hearsay would be that 'when A tells a court what B has told him, that evidence is called hearsay'. Under the existing law, hearsay evidence is inadmissible in criminal proceedings unless it falls within one of a number of common law or statutory exceptions.

What is the principle justification for the exclusion of hearsay evidence in criminal trials and what are the main statutory exceptions? **(10 Marks)**

Question 2

A defendant has given evidence from the witness box during his trial; he has no previous convictions and is of positive good character. In a criminal trial where a defendant is said to be of 'good character' the tribunal of fact (judge or jury) may take this fact into account in two main ways in deciding guilt or innocence of the charge. What are they? **(10 Marks)**

Question 3

In civil proceedings letters written and oral communications made between the parties to a dispute are often said to be "Without Prejudice"

(a) What does this mean and what is the evidential status of documents so marked? **(5 Marks)**

(b) What is a 'Calderbank Letter' and what is its primary purpose? **(5 Marks)**

Question 4

What is the general evidential rule regarding the admission of a previous consistent statement in a criminal trial and what are the five main exceptions to this rule? **(10 Marks)**

Question 5

In a criminal trial a witness of fact who gives evidence from the witness box does so having previously made a witness statement to the police. In the course of giving evidence in chief, the witness explains that he can no longer remember some of the evidence he wrote in his statement.

How will the court deal with this witness? **(10 Marks)**

~ End of Examination Paper ~