



جامعة السلطان الشريف علي الإسلامية
UNIVERSITI ISLAM SULTAN SHARIF ALI
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

Faculty of Shariah and Law
Semester II, 2017/2018 Academic Session
Final Examination Question Paper

Course Code : LB5304
Course Name : Professional Practice II
Course Level : Bachelor of Laws (LL.B) & Bachelor of Shariah Law (BSL)
Time : 3 Hours

Reference allowed:

Probate & Administration Act (Cap.11)
Bankruptcy Act (Cap 67)
Insolvency Order 2016
Syariah Courts Act (Cap 184)

Notes:

- 1, Answer all questions in PART ONE and any two questions in PART TWO.**
- 2. All answers, wherever relevant, must be supported by statutory provisions and case laws.**

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PART A

ANSWER ALL QUESTIONS

QUESTION 1 (15 MARKS)

1. Upon the death of his father, Ariffin comes to see you for advice on how he can be appointed as the administrator of his father's estate. He explains that his father left behind 3 children. Ariffin being the eldest and two sisters and wife, Fatimah. His late father still have outstanding debts of \$50,000.00 with a bank. Ariffin seeks your legal advice on the following matter:

(a) To apply for a Letter of Administration under the Probate and Administration Act (Cap 11). Your advice must include explaining the importance of the Letters of Administration to be secured and explain his duties as the administrator of the estate of his late father as well as procedure on the payment of the outstanding bank loan of \$50,000.00 of the money available was insufficient to pay the loan as well as whether Ariffin would be able to be reimbursed for any expenses he would incur in the administration of the estate under the Probate and Administration Act (Cap 11).

(10 Marks)

a) The procedure to apply for Faraidh Certificate before the Syariah Court on the determination of the shares of the lawful beneficiaries of the estate of Hassan under Section 15 (ix) of The Syariah Court Act (Chapter 184). Your advice should include clarifying what documents to be submitted to the Syariah Court to support the application.

(5 Marks)

QUESTION 2 (15 MARKS)

2. Osman has obtained a Court judgment against Peter for arrears of rental of his shop house in the sum of \$50,000.00. Osman seeks your legal advice to file Bankruptcy Petition under the Bankruptcy Act Cap 67 against Peter to recover the \$50,000.00. Advise Osman on the procedure of filing the Bankruptcy Petition against Peter. Your advice must include:

(a) What are the meaning of Bankruptcy Acts supported with decided cases and the procedure of the service of the Bankruptcy Notice under the Bankruptcy Act Cap 67.

(5 Marks)

(6 Advise Osman on the procedures pertaining to the requirements under The Bankruptcy Order Act Cap 67 of the following :

- (i) Creditors Meeting
- (ii) Receiving Order
- (iii) Adjudication Order
- (iv) Rescission Order

Your answers should include decided cases.

(10 Marks)

PART TWO

QUESTION 3 (15 MARKS)

3. ABC Bank instructed you to apply for the winding up of a limited company, Serunai Sdn Bhd for the sum of \$1,000,000.00 being the court judgment of a balance of Bank Loans to purchase of Hotel and commercial building at Gadong.

(a) Clarify what is meant by Winding up Petition and the grounds of a Winding up Petition as well as the procedures pertaining to the application for winding up of Serunai Sdn Bhd under the Insolvency Order 2016.

(10 Marks)

- (b) Clarify to ABC Bank on the concept of Proposal for Voluntary Arrangement and Judicial Management under the Insolvency Order 2016.

(5 Marks)

QUESTION 4 (15 MARKS)

4. Robert, a Director of Tiptop Development Company have approached you to prepare a Power of Attorney to develop a ten acres of land belonging to Omar. However, Robert told you that the land title was found missing. Advise Robert how his company can proceed with the development of Omar's land on the following:

- (a) The legal procedure to obtain the replacement of the missing original land title. Your advice must include purpose of Statutory Declaration and the legal consequences of making legal false Statutory Declaration under Section 199 and 200 of the Penal Code.

(5 Marks)

- (b) The procedure for the Developer Tiptop Development Company to have the necessary powers in the development of the property under the Power of Attorney Act Cap 13. Your advice must include the purpose of Power of Attorney and to state the contents of the essential terms in the Power of Attorney to be created by Robert in favour of Tiptop Development Company. You must also advice what circumstances the Power of Attorney can be revoked by Omar granted to Tiptop Development Company.

(10 Marks)

QUESTION 5 (15 MARKS)

Zaini, a 70 year old businessman approaches you to consult you legal advice pertaining to the Islamic Property Inheritance to provide for his wife, Siti Khaitjah, 50 years, his son Rizal, 25 years old and Mala, 21 years old adopted daughter. He wants you to prepare the following instruments:

- (a) Declaration of Matrimonial Property (Harta Sepencarian)
- (b) Declaration of Gift (Hibah)
- (c) Islamic Will (Wasiat)

In your advice, you must state which instruments can be used for his wife, his son and his adopted daughter and explain the significance of each of the instrument as well as the need for the appointment of an executor. Your advice should also include what will happen to the rights of inheritance of his wife, his son and his adopted daughter if no such instruments were prepared by Zaini before he dies.

(15 Marks)