



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

Faculty of Shariah and Law
Semester II, 2022/2023 Academic Session

Final Examination Question Paper

Course Code : LB4302

Course Name : Law of Evidence II

**Course Level : Bachelor of Laws (LL.B) & Bachelor of
Shariah Law (BSL)**

Time : 3 hours

Notes:

1. Answer any **four** of the following questions.
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

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QUESTION 1 (15 Marks)

Consider the competence and compellability of the following witnesses:

a. Alex, a 10 -year -old child who wishes to support of his mother's application for a residence order (custody).

(5 Marks)

b. Xavier, a co-defendant in a drug trial who has information to suggest that the defendant had previously imported heroin into the country. The prosecution wishes to call Xavier to give evidence against the defendant.

(5 Marks)

c. Anusha is a witness in a theft trial and suffers from a physical condition which means that her short-term memory is poor. The prosecution wishes to call her as their main witness.

(5 Marks)

QUESTION 2 (15 Marks)

a. What is a leading question under the rule of examination of witnesses and when leading questions may be asked and when they must not be asked?

(7 Marks)

b. Discuss four ways of impeaching a witness under the Evidence Act and support your answer with relevant statutory provisions and case law.

(8 Marks)

QUESTION 3 (15 Marks)

Bashir is charged with outraging the modesty of Miss X, who is 10 years old. At the trial of Bashir, Miss X appeared as a witness for the prosecution. As it appeared that she could not understand the nature of the oath, Miss X was allowed to give unsworn evidence. Halima, Miss X's mother also gave evidence for the prosecution. Bashir is convicted.

Bashir's counsel now appeals on the grounds *inter alia* that the conviction was bad because; Miss X's evidence should not have been admitted as it was unsworn. Halima's evidence should have been corroborated as she was an interested witness. Advise Bashir's counsel.

(10 Marks)

List and discuss five ways you may be able to authenticate handwriting in court.
(5 Marks)

QUESTION 4 (15 Marks)

In the case of *KPMG Khidmat Sdn Bhd v Tey Kim Sue* (1994) 2 MLJ 627 (Supreme Court), Per Mohamed Dzaiddin SCJ stated, “basically, secondary evidence of the contents of a document is inadmissible, until the non-production of the original is first accounted for, so as to bring it within one or the other cases provided for in the section”.

In light of the above dictum, what is secondary evidence and what are the conditions to be satisfied before secondary evidence of a document can be given in evidence?

QUESTION 5 (15 Marks)

Isaac and Christian are defendants in a trial for burglary. It is alleged that they broke into a local university library and stole £30,000 for computer equipment from the library. Advise the prosecution about the admissibility of the following pieces of evidence;

(a). During police questioning Isaac admits that he carried out the burglary on his own. Christian wishes to use Isaac’s confession to prove that he (Christian) is innocent.

(5 Marks)

(b). The police carried out an illegal search of Isaac’s flat and found a crowbar, which, they say, was used to enter the University library.

(5 Marks)

(c). Evidence comes to light that there had been a series of previous burglaries at the university and that the police had launched a ‘sting’ operation to find the culprits and had deliberately asked the university to leave the computer equipment unsecured so that it could be stolen. Isaac says in his confession that he only set out to steal the computers because a friend of his who is a student at the university had told him the computers were no longer secured who to tables. Both he and Christian are shown on CCTV camera entering the library.

(5 Marks)

QUESTION 6 (15 Marks)

Upon proof of the basic facts the court is bound to take the fact to be presumed as having been proved. Discuss the following presumption of law:

- (a). Continuity of life. (5 Marks)
- (b). Presumption of death. (5 Marks)
- (c). Legitimacy of child. (5 Marks)

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