

**STRUCTURES/ESSAYS (100 marks)**

**INSTRUCTION:**

This section consist of **SIX (6)** structures/essays questions. Answer **FOUR (4)** questions only.

**QUESTION 1**

Explain the following important points in law;

- a) Law is a body of rules; (5 Marks)
- b) Law is a guidance for human conduct; (5 Marks)
- c) Law is imposed; (5 Marks)
- d) The Law need to be enforced; (5 Marks)
- e) Justice and Law. (5 Marks)

**POLITEKNIK**  
Jabatan Pengajian Politeknik

EXAMINATION AND EVALUATION DIVISION  
DEPARTMENT OF POLYTECHNIC EDUCATION  
(MINISTRY OF HIGHER EDUCATION)

COMMERCE DEPARTMENT

FINAL EXAMINATION  
JUNE 2012 SESSION

**P5314 : LIABILITY INSURANCE**

**DATE : 18 NOVEMBER 2012 (SUNDAY)**  
**DURATION : 2 HOURS (11.15 AM – 1.15 PM )**

---

This paper consists of **FIVE (5)** pages including the front page.  
Structures/Essay (6 questions – answer 4 questions)

---

**CONFIDENTIAL**  
**DO NOT OPEN THIS QUESTION PAPER UNTIL INSTRUCTED**  
**BY THE CHIEF INVIGILATOR**

## QUESTION 3

The employers in Malaysia are bound by Workmen's Compensation Act 1952 and Employees Social Security Act 1969.

- a. What are the duties of the employers to its employees under these two Acts?  
(3 Marks)
- b. Who is the 'employees' under these **TWO (2)** Acts?  
(12 Marks)
- c. There are **TWO (2)** types of scheme provided under Social Security Organization (SOCSSO). They are Employment Injury Insurance Scheme and Invalidity Pension Scheme. Discuss the coverage provided under these **TWO (2)** schemes.  
(10 Marks)

## QUESTION 4

- a) At common law everyone owes a duty of care towards his neighbour. How is the expression neighbour defined legally? Explain in the light of the case of Donoghue v Stevenson.  
(7 Marks)
- b) Contractor Kay, while erecting some scaffolding, drops a clamp which strikes a passer-by, Zuki, causing him serious head injury. Kay receives claims from the following people. Identify whether the claimants below entitled to be compensated by Kay:
  - (i) Zuki, for medical expenses, pain and suffering, as result of his injury.  
(6 Marks)
  - (ii) Zuki's wife, for shock and anxiety on hearing of his husband's injury;  
(6 Marks)
  - (iii) Zuki's partner, for loss of income to the partnership as a result of B's absence from work.  
(6 Marks)

## QUESTION 2

- a) Discuss **FOUR (4)** elements of a breach of statutory duty.  
(16 Marks)
- b) "A person who for his own purposes brings on his land and collects and keeps there anything likely to do mischief if it escape, he must keep it at his peril, and, if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape." (per Blackburn J in the Court of Exchequer Chamber)
  - i) What is the wrongful tort referred to in the statement above?  
(1 Mark)
  - ii) This wrongful tort is also known as the rule in one leading case. What is the name of the case?  
(1 Mark)
  - iii) Explain the fact of the case in (ii);  
(3 Marks)
  - iv) List down **FOUR (4)** elements of this wrongful tort.  
(4 Marks)

**QUESTION 5**

In 2005 Faiz & Co., architects, provided plans for a new factory for Success Sdn. Bhd. The factory was built in 2008. In 2012 the upper floor of the factory started to collapse because the beams were of insufficient strength. In 2012 Success Sdn. Bhd submitted a claim to Faiz & Co., for repairs to their factory and the cost of renting temporary premises while repairs were being carried out, on the ground that Faiz & Co. was negligent in drawing up the plans. Faiz & Co. effected Professional Indemnity Insurance with the ABC Insurance Co. in 2008 and transferred it to the XYZ Insurance Co. in 2012.

Which of these claims would be covered and by which insurance company? Support your answer with reasons.

(25 marks)

**QUESTION 6**

- a. One of the underwriters' duties is to accept or reject certain categories of risk. In discharging this duty, they have to rely on certain relevant information. Discuss **THREE (3)** sources of this information.

(12 Marks)

- b. Discuss the primary underwriting factors for the following liability policies;

a) Personal Liability Insurance;

(6 Marks)

b) Public Liability Insurance;

(7 Marks)