

## **PCLL CONVERSION EXAMINATION JUNE 2016**

Title of Paper : Commercial Law – Part A  
Date : 28 June 2016  
Time : 9:00 a.m. – 9:10 a.m. (Reading Time)  
9:10 a.m. – 10:10 a.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 one-hour examination.
5. This is an open book examination.
6. Reading time for this paper is 10 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 2 pages, including two questions. Candidates are only required to answer **ONE** question out of two. A total of 100 marks may be awarded. Candidates will score zero marks for that part if they answer more than one question from one part.
8. The passing mark for this paper is 50 marks.

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UNTIL YOU ARE TOLD TO DO SO**

PCLL Conversion Examination June 2016

Commercial Law

**Part A: Sale of Goods**

**Question 1 (100 marks)**

- a) On 1<sup>st</sup> May 2016 Mary went to a shop to buy some furniture. There was on display a sofa and chairs of the type she wanted to buy. However, there were none in stock. She therefore agreed to buy the sofa which was on display, and under a separate contract she agreed to buy two chairs which the shop would order from the manufacturer. It was also agreed that the sofa and chairs would be delivered to Mary's home on 12<sup>th</sup> May 2016. Payment was to be made on delivery. On 9<sup>th</sup> May 2016 the shop received delivery of 10 chairs of the type Mary had agreed to buy. A label "For delivery to Mary 12<sup>th</sup> May" was put on two of them. On the night of 11<sup>th</sup> May 2016 there was a fire at the shop and the sofa and chairs were destroyed. The shop is insisting that Mary must pay the agreed price for the sofa and chairs.

Advise Mary.

**(90 marks)**

- b) In what way, if any, would your advice differ if Mary had arranged to collect the chairs from the shop on 10<sup>th</sup> May but failed to do so?

**(10 marks)**

**Question 2 (100 marks)**

Tony entered into a hire purchase agreement with Finance Limited ('Finance') to purchase from it a metal fragmentiser machine for recycling scrap metal. Under the terms of the hire purchase agreement he was to pay 24 monthly instalments. After two months Tony sold the machine to Victor, who was unaware that Tony was in possession of the machine under a hire purchase contract. Three months later Victor sold the machine to William. William has been in possession of the machine for nine months. Finance is now claiming the return of the machine from William because after six months Tony stopped paying the hire purchase instalments and has disappeared.

Advise William on the following:

- a) Whether he can resist Finance Limited's claim on the basis that he has a superior title to the machine. **(60 marks)**
- b) What rights, if any, he may have against Victor. **(20 marks)**
- c) In what way would the legal position of William be different if, after he (William) had been in possession of the machine for six months, Tony paid Finance all the money owing under the hire purchase agreement? **(20 marks)**

**~ End of Examination Paper ~**

## **PCLL CONVERSION EXAMINATION JUNE 2016**

Title of Paper : Commercial Law – Part B  
Date : 28 June 2016  
Time : 10:25 a.m. – 10:35 a.m. (Reading Time)  
10:35 a.m. – 11:35 a.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 one-hour examination.
5. This is an open book examination.
6. Reading time for this paper is 10 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 2 pages, including two questions. Candidates are only required to answer **ONE** question out of two. A total of 100 marks may be awarded. Candidates will score zero marks for that part if they answer more than one question from one part.
8. The passing mark for this paper is 50 marks.

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PCLL Conversion Examination June 2016

Commercial Law

**Part B: Personal Property**

**Question 1** (100 marks)

Answer all parts of the question

- a) Explain the similarities and differences between a pledge and a lien as a security interest. **(50 marks)**
- b) Why is a pledge an inferior security interest as compared to a legal mortgage? **(15 marks)**
- c) As security for a loan, John deposits with the lender the share certificate for shares he owns in Acme Ltd. and an instrument of transfer signed by John transferring the shares to the lender who is named as the transferee. Explain what type of security interest over the shares has been created. **(35 marks)**

**Question 2** (100 marks)

David, who is in the business of manufacturing timber, enters into supply contracts with AB Ltd. for the supply to the latter of unpolished wooden board and poles on a regular basis. AB Ltd. runs a made-to-order furniture business in the New Territories. It employs carpenters to make cabinets, dining chairs and tables, the process of which requires substantial labour and other raw materials.

David's timber supply contracts with AB Ltd. contain the following clause:

*'The seller and buyer agree that the seller shall retain full title to the goods (and any products they are incorporated into) until full payment is made by the buyer on all invoices issued by the seller. If the buyer sells the goods (or any products into which the goods have been incorporated), the buyer shall hold such proceeds in trust for the seller until such payments on the invoices are made in full by the buyer.'*

Recently AB Ltd.'s business has fallen by half and invoices issued by David and other creditors are outstanding. AB Ltd is now forced into winding up its business to pay off its creditors. It has a huge amount of wood (supplied by David) and finished furniture on its premises.

Advise David as to his rights and remedies.

~ End of Examination Paper ~

## **PCLL CONVERSION EXAMINATION JUNE 2016**

Title of Paper : Commercial Law – Part C  
Date : 28 June 2016  
Time : 11:50 a.m. – 12:00 p.m. (Reading Time)  
12:00 p.m. – 1:00 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 one-hour examination.
5. This is an open book examination.
6. Reading time for this paper is 10 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 3 pages, including two questions. Candidates are only required to answer **ONE** question out of two. A total of 100 marks may be awarded. Candidates will score zero marks for that part if they answer more than one question from one part.
8. The passing mark for this paper is 50 marks.

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PCLL Conversion Examination June 2016

Commercial Law

**Part C: Consumer Credit and Protection**

**Question 1** (100 marks)

Answer all parts of the question

- (a) *The law is very protective of sureties.*” Goode.

Explain why it is more advantageous for a surety to enter into a contract to guarantee a debt rather than to enter into a contract of indemnity. (50 marks)

- (b) Explain the legal effect of the following clause in a guarantee contract made in relation to a HK\$ 10,000,000 loan:

*“The liability of the guarantor is limited to HK\$ 1,000,000.”* (20 marks)

- (c) Acme Limited (‘Acme’) entered into a loan agreement with Miser Bank (‘Miser’) under which it was lent HK\$ 5 million. The loan was to be repaid on 1<sup>st</sup> November 2016. The loan was guaranteed by Tony, Acme’s managing director. Last week the Bank met with Tony and agreed to amend the loan with Acme by changing the date for repayment of the loan by Acme until 1<sup>st</sup> November 2017.

Advise Tony what effect, if any, this change has on his guarantee agreement with Miser. (30 marks)

**Question 2** (100 marks)

Imelda is the managing director of Good Driver Ltd (‘Good Driver’), a driving school. Good Driver makes the following two contracts with Motors Ltd (‘Motors’) which runs a business selling and repairing cars.

1. A contract to purchase a dual control car for the driving school
2. A contract to buy a car for Imelda’s own personal use.

Good Driver wishes to reject both cars as they are not of merchantable quality.

Amanda leaves her car with Motors for repair. Motors informs her that there is serious fault with the brakes and as part of the repairs new brakes will need to be fitted. Amanda has been advised that the brakes fitted are not of merchantable quality and that the quality of other repair work carried out on her car, such as respraying a door, is of poor quality.

In Motors contracts with both Good Driver and Amanda there is the following clause:

*“Any complaint concerning the quality of goods sold or services provided must be notified to Motors Ltd. within five days of delivery of the vehicle to the customer. Motors Ltd. regrets it can accept no responsibility of any kind for the quality of the goods supplied or services provided after this time.”*

Good Driver and Amanda are now both considering taking legal proceedings against Motors for the reasons stated above.

Advise Motors as to the legal effect of the above clause in its contracts with Good Driver and Amanda. Will the clause provide Motors with a good defence if Good Driver and Amanda failed to notify Motors within the five day period?

**~ End of Examination Paper ~**