

## **PCLL CONVERSION EXAMINATION JUNE 2016**

Title of Paper : Evidence  
Date : 23 June 2016  
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 4 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.
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**

## PCLL Conversion Examination June 2016

### Evidence

#### **Question 1 (two parts)**

- (i) B was charged with the buggery and murder of a boy. He admitted homosexual activity but said when he saw another man nearby he panicked and ran away. B's description of this other man corresponded closely to M. B said M must have committed the offences.

The prosecution agreed that M was in the area that night and had been investigated by police for murder. M was also known to have engaged in homosexual acts in the past with others. B wanted to call witnesses to say that before the victim's body was found, M had told them that a boy had been murdered.

Is this evidence admissible or inadmissible?

- (ii) You act for Y, whose case is that at a meeting on 1 July he made it clear to X that he needed widgets to fit into a high-speed machine. The widgets actually supplied were not fit for that purpose.

It is X's case that Y did not even attend the meeting on 1 July and that there was never any mention of high-speed machinery.

You intend to call Z whose evidence is: 'I was standing just outside the meeting room. I heard Y's voice saying "We need the widgets for the high speed Q480."'

Your purpose in adducing this evidence might be:

- (a) To prove that Y attended the meeting, contrary to X's evidence.
- (b) To prove that X was told that the widgets were needed for a high-speed machine.
- (c) To prove that the widgets were needed for a high-speed machine.

Which of these reasons – a b and/or c (if any), is the judge likely to rule admissible?

**(10 marks)**

**Question 2 (two parts)**

Generally, a witness who testifies in a court is required to give information relevant to the proceedings on matters upon which he is asked by one or other of the parties or the court. A witness may not refuse to testify on any relevant and admissible matter unless the court holds that the matter is privileged.

Under human rights law as well as at common law, where the court holds that a matter is privileged under one of the various heads of privilege, a witness cannot be compelled to testify as to the question asked. Explain this evidential rule in relation to:

- (i) Self-incrimination in a criminal trial
- (ii) Legal and professional privilege

**(10 marks)**

**Question 3 (two parts)**

A witness is competent to give evidence if he may be lawfully called to give evidence. A witness is compellable if he may lawfully be obliged to give evidence. In the modern law of evidence, almost all persons are competent to give evidence. Most persons who are competent to give evidence are also compellable.

However, the position of some groups or classes of people are said to be not competent or compellable or both. Explain why in relation to:

- (i) Accomplices
- (ii) The spouse of an accused in a criminal trial

**(10 marks)**

**Question 4 (five parts)**

All witnesses called to give evidence in a criminal trial (whether for the Prosecution or Defence) are subject to a number of rules of evidence in relation to how they may give their evidence in court. Briefly, explain the rules in relation to each of the following:

- (i) Examination in Chief and how this differs from Cross Examination.
- (ii) Leading Questions in a Criminal Trial
- (iii) Memory-refreshing Documents in Court
- (iv) The Rule of Finality of Answers to Collateral Questions
- (v) Hostile Witnesses

**(10 marks)**

**Question 5 (five parts)**

As Lord Reid pointed out in *Myers v DPP* [1965] AC 1001, 107, 'it is difficult to make any general statement about the law of hearsay which is entirely accurate'. The rule against hearsay has proved difficult to define with precision because of the large and varied number of exceptions to this rule.

- (i) Give a brief definition of the basic hearsay rule and then explain how each of the following examples are generally considered to be exceptions or partial exceptions to the basic hearsay rule.
- (ii) Dying Declarations
- (iii) Declarations in the Course of Duty
- (iv) Res Gestae
- (v) The Opinions of Qualified Experts

**(10 marks)**

**~ End of Examination Paper ~**