

LAW SOCIETY OF BRITISH COLUMBIA
SAMPLE QUALIFICATION EXAMINATION

PART I

NOTE

1. This examination represents approximately one-half of a typical 100-mark, three-hour Qualification Examination. It is marked out of 50 and could be completed in 1 1/2 hours. The regular exams are printed on one side of the page only. In the regular exams, each of three sections is worth 30 marks. One section (Practice Management) is worth 10 marks.
2. The questions and answers are based on the law as of January 2020.
3. This sample examination may be circulated. All other Qualification Examinations are confidential and can only be reviewed at PLTC by students who fail their examination.

INSTRUCTIONS

1. You have **1 1/2 hours** to complete this examination.
2. Part I identifies whether questions are Real Estate (15 marks), Business (15 marks), Wills (15 marks), or Practice Management (5 marks) within the question stem. Ethics questions are not identified separately—these questions are spread throughout the examination.
3. The following instructions apply to the different types of questions you will answer.

(a) **Multiple Choice**

You are to choose the best answer, even where a technical argument exists for the correctness of other answers.

Hard copy: Circle the letter for only one answer statement.

ExamSoft: Select the letter for only one answer statement.

(b) **Short Answer**

The number of marks allocated is a good guide to the amount of time and space you should allocate to a question. Point form answers are acceptable if they communicate the answer clearly.

Hard copy: Answer in the lined space provided. You can continue an answer in the blank space below the lines if necessary.

ExamSoft:

- Character limits have been set in the answer box to allow ample space for your answers. Do not feel obligated to reach the maximum.
 - Some short answer questions include multiple sub-questions, e.g. (a), (b), (c). Clearly indicate in the answer box which sub-question you are answering when writing your answers to these questions.
4. When a question is marked, markers look at the whole answer. For instance, if you give the correct information in one part of the answer, but contradict yourself in another part of the answer, then you cannot get full marks and may get no marks. PLTC does not use negative marking (you will not receive less than zero on any given question). When a question says “Marks will be deducted for additional incorrect answers”, that means that if you give more answers than are called for in a question, and some of them are incorrect, marks may be deducted from the correct answers, but you will not receive less than zero.

Question 1

Real Estate (2 marks)

In a residential conveyance of a single family dwelling, the buyer's lawyer, without specific instructions to the contrary, would automatically:

- A. order a surveyor's certificate;
- B. order a company search;
- C. make property tax inquiries;
- D. make zoning inquiries.

Question 2

Real Estate (2 marks)

Why is it important for a conveyancing lawyer to obtain a written payout statement from a lender?

Question 3**Real Estate** (2 marks)

Once the buyer's lawyer registers the transfer and receives a satisfactory post-registration search, they generally pay out the mortgage funds. This is done before registration has been perfected.

(a) What is the risk of this practice? (1 mark)

(b) Give one example of how this risk could arise. (1 mark)

Question 4**Real Estate** (4 marks)

Your practice is in Vernon, BC. You are acting for Mya Johnson and Perry Robertson, who are buying a summer cabin near Oyama, BC for \$585,000 and taking out a mortgage from Dominion Bank for \$385,000.

(a) Can you act for both the buyers and Dominion Bank? **Explain.** (2 marks)

(b) The week before the deal is set to close, the seller, Garth Prasad, asks if you will witness his signature on the Form A Transfer. He does not know the buyers or have his own lawyer. There is no existing mortgage to discharge. Can you witness Garth's signature? **Explain.** (2 marks)

Question 5**Real Estate** (3 marks)

When acting for a seller who is not a resident of Canada for income tax purposes, what should you recommend the seller obtain before completion? **Explain.**

Question 6**Real Estate** (2 marks)

Laura George was trained by Sam Moore as a manager for First Family Bank, a Canadian chartered bank. Moore taught George that if any residential mortgage loan exceeded 75% of the value of the property, it had to be insured by C.M.H.C. and if so, she could then lend up to 90% of the value. George found Moore to be overly cautious. After his retirement, she became manager and sent a memorandum authorizing loan officers to make mortgage loans up to 90% of value without insurance. Is this policy acceptable? **Explain.**

Question 7**Business** (3 marks)

You act for Janine Sahara. She wants to acquire the bottled water business of Pristine Holdings Ltd. The work force of Pristine is not unionized. Sahara has heard that some middle and top level employees are very unproductive. Do these facts favour a share or asset purchase or are they neutral? **Explain.**

Question 8**Business** (2 marks)

Your client wants to purchase all of the assets of XYZ Mill Ltd. and wants to close the transaction at the end of next week. You have conducted statutory lien searches for unpaid employee deductions. You will not have received a response from the Canada Revenue Agency by the end of next week.

Give two ways you can close the deal on time but still protect your client from liability for such a lien.

Question 9**Business** (3 marks)

Henry Unger bought a washer, dryer, refrigerator, stove, dishwasher and microwave from Arctic Appliances Ltd. for \$13,320. Unger paid \$5,000 down and agreed to pay the balance in 12 equal monthly instalments.

Arctic Appliances filed a valid financing statement in the Personal Property Registry on the same day that Unger paid the \$5,000 and the appliances were delivered to Unger's home. There are no other charges against the appliances. Unger made the first two payments, but failed to pay the third and fourth instalments.

What are Arctic's remedies? **Explain.**

Question 10**Business** (2 marks)

You own 10% of the issued voting shares in a private BC company. Can you can compel the company to hold a general meeting? **Explain.**

Question 11**Business** (3 marks)

Anne is one of three directors of Lotus Land Corporation. She recently cast the deciding vote at a director's meeting approving the sale of land in the Dry Creek area to Progress Developments. The Dry Creek land was one of the few valuable properties Lotus owns. One of Lotus' shareholders, Grace, has now learned that Anne holds 40% of the issued shares of Progress. Grace also found out that the municipality is about to rezone the Dry Creek area from industrial to commercial retail use, which will increase its value. Apparently, anyone who called the municipality within the preceding three months would have been told about the rezoning.

The directors of Lotus refuse to do anything about the sale. If Grace obtains leave to bring a derivative action, what remedy or remedies can she seek? **Explain.**

Question 12**Business** (2 marks)

Your client is Adrian, a shareholder in Alternative Adventures Ltd. It is a British Columbia private company. Alternative has one class of common shares of which your client holds 18 out of 112 issued. Manpreet, who owns the other 94 shares, plans to transfer 35 of those shares to his niece. Your client does not want the niece in the company, and asks you if he can prevent the transfer.

What information do you need to advise your client? Where would you find it?

Question 13**Wills (2 marks)**

Morris, a widower, dies in BC leaving a valid Will that makes the following disposition:

“to divide the residue of my estate equally among my issue per stirpes”

Morris’s estate has a value of \$300,000. He is survived by his daughter, Benita, and his son, Juan. His only other child, Lianne, predeceased him. Lianne was survived by her husband, Mel, and their children, Chloe and Devon.

Lianne’s share of Morris’s estate will be distributed as follows:

- A. divided equally between Benita and Juan;
- B. pass to Mel;
- C. divided equally among Mel, Chloe and Devon;
- D. divided equally between Chloe and Devon.

Question 14**Wills (2 marks)**

You prepared a Will for your client Edward two years ago. Edward has been storing the original Will in his safety deposit box and you have a copy. Today Edward phoned you and instructed you to add a valuable new painting to the gifts his son will receive. He asked you to simply adjust the clause that provides specific gifts to his son and to send him a copy of the revised Will. He said he plans to discard the old Will and put the revised one in his safety deposit box.

If you follow these instructions, would the revised Will be valid? **Explain.**

Question 15**Wills** (3 marks)

Harpinder dies in BC leaving a valid Will that includes the following provisions:

- “To deliver to my sister, Anisa Dhaliwal, if she is living at my death, my YR–3 Honda Accord automobile.”
- “To pay or transfer the sum of \$5,000 to my dear friend, Ravneet Johal.”
- “To pay or transfer the residue of my estate to the Canadian Red Cross Society.”

(a) At her death, Harpinder no longer has the Honda Accord. Instead, she has a YR 0 Toyota Corolla. Can the executor of Harpinder’s Will transfer the Toyota to Anisa? **Explain.** (1 mark)

(b) Ravneet predeceased Harpinder, and was survived only by her husband, Mastan. Who is entitled to receive the \$5,000 left to Ravneet? **Explain.** (1 mark)

Question 16**Wills** (3 marks)

Cho, who is not your client, phoned and gave you instructions to prepare a Will for his uncle, Joon. Cho advised you that his uncle wants him to receive the bulk of his estate. Joon later called and confirmed the instructions that Cho gave you. During the call, Joon seemed slightly confused about what day of the week it was.

You prepared the draft and sent it to him for his review. Joon then attended at your office to execute the Will. You spent a fair bit of time with him and were satisfied that on the day he signed the Will he understood what he was doing. Have you acted correctly? **Explain.**

Question 17**Wills** (5 marks)

Georgia died in BC on April 15, YR 0 leaving a valid Will dated August 1, YR-7. In her Will, she made the following dispositions:

- She left her R.R.S.P. to her husband, Manuel.
- She left one-quarter of the residue of her estate to her husband, Manuel.
- She left the balance of the residue to be divided equally per stirpes among her children, Rosa, Alejandro and Teresa.

Georgia left no debts. The RRSP is valued at \$20,000 and designates the Estate as the beneficiary. The residue of her estate has a value of \$100,000.

Georgia and Manuel were divorced in April YR-4. Georgia was survived by Manuel, Alejandro and Teresa. Georgia's daughter, Rosa, predeceased her. Rosa was survived by her husband, Raphael, and two children, David and Elizabeth.

What, if any, portion of the estate is each of the following is entitled to? **Explain.**
(Specify dollar amounts or shares.)

(a) Manuel (2 marks)

(b) David and Elizabeth (2 marks)

(c) Alejandro and Teresa (1 mark)

Question 18**Practice Management** (2 marks)

Karen is unhappy with her former lawyer's account. Karen plans to complain to the Law Society that the lawyer has charged an excessive fee, and ask the Law Society to reduce the amount. Advise Karen.

Question 19**Practice Management** (3 marks)

Dhillon, a sole practitioner, has a pooled trust account at a chartered bank in BC. She has repeatedly instructed the bank to debit service charges against her general account, but the bank persists in debiting the trust account. This causes a problem for her monthly trust reconciliations.

(a) Advise Dhillon how to prevent this problem. (1 mark)

(b) Dhillon has trust funds amounting to \$5,000 to the credit of two clients who disappeared three years ago. Dhillon has tried to locate them without success. Describe what Dhillon should do with regard to the \$5,000. (2 marks)

50 MARKS