



ICM

SEPTEMBER 2016

HOTEL & CATERING LAW

Instructions to candidates:

- a) Time allowed: Three hours (plus an extra ten minutes' reading time at the start – do not write anything during this time)
 - b) Answer any FIVE questions
 - c) All questions carry equal marks. Marks for each question are shown in []
 - d) Cite principles of law, common law, statute law and cases with a synopsis of their facts and ratios. Extra marks will be awarded for relevant cases cited
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1. Arbitration is a process in which a dispute between two parties is settled through an impartial third party without the matter having to go to Court.
 - a) Outline the benefits of arbitration over legislation. [10]
 - b) Discuss the circumstances by which a partner may apply for a court order to dissolve the partnership. [10]
 2. The proprietor of a hospitality premises, as well as each member of management, has a legal duty to ensure the health, safety and welfare of every person using the premises.
 - a) Discuss aspects that will be inspected to ensure that premises comply with fire safety legislation. [10]
 - b) Examine the hotelier's statutory duty of care to lawful visitors. [10]
 3. Regardless of the media used to make a reservation, a booking contract is subject to the same civil legal principles as any other contract.
 - a) Compare the legal position of a contract made over the telephone with one completed by electronic mail (email). [10]
 - b) Discuss the differences between 'negligent mis-statement' and 'negligent misrepresentation'. [10]
 4. The proprietor of a hotel within the Hotel Proprietors Act 1956 (i.e. an innkeeper) has a legal duty to fulfil specific obligations without prior contract. Examine the rights and duties of a hotelier whose establishment is considered to be an 'inn' within the scope of this Act. [20]
 5. A contract is a legally binding agreement that will be created whenever a hotelier enters into an arrangement with a supplier of a product or service. Examine the **express terms** and **implied terms** which may be included in a commercial contract. [20]
 6. A registered club is an organisation that exists for the benefit of its members, each of whom owns an equal share in the club.
 - a) Examine the requirements to which a registered club must adhere for a registration certificate to be granted. [10]
 - b) Discuss reasons why a club may not succeed in the application for a registration certificate. [10]
 7. There are many factors to consider when deciding the status of a person working in the hospitality industry.
 - a) Compare and contrast the various tests that will establish whether one person is an employee of another. [15]
 - b) Who is entitled to receive a written statement of terms and conditions of employment? [5]
 8. Every employer and employee has a responsibility under the Health and Safety at Work etc Act 1974 to ensure their workplace is safe.
 - a) Describe the general duties imposed upon employers under this Act. [5]
 - b) What general duties are imposed upon employees? [5]
 - c) Discuss the duties of a safety representative. [10]