
UNIVERSITI SAINS MALAYSIA

Second Semester Examination
Academic Session 2005/2006

April-May 2006

RMT 555 – Persekitaran Perundangan
(*Legal Environment*)

Duration: 3 hours
(Masa: 3 jam)

Sila pastikan bahawa kertas peperiksaan ini mengandungi **EMPAT** muka surat yang tercetak sebelum anda memulakan peperiksaan ini.

*Please check that this examination paper consists of **FOUR** printed pages before you begin the examination.*

Pelajar dibenarkan menjawab semua soalan dalam Bahasa Inggeris ATAU Bahasa Malaysia sahaja.

Students are allowed to answer all questions either in English OR in Bahasa Malaysia only.

Jawab **EMPAT** soalan sahaja. Jawab **TIGA** soalan dari **BAHAGIAN A** dan **SATU** soalan dari **BAHAGIAN B**.

*Answer **FOUR** questions only. Answer **THREE** questions from **SECTION A** and **ONE** questions from **SECTION B**.*

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BAHAGIAN A : Jawab **TIGA** soalan sahaja
SECTION A : Answer **THREE** questions only

1. *Consultants and developers must understand very clearly the scenario of land matters relating to construction development (housing project, commercial complex, etc.). Among other matters are the issue relating to the reservation of certain lands for specific specified purpose, in which they must also be aware of.
Discuss.*

(25 marks)

Konsultan dan pemaju perlulah memahami dengan jelas perkara-perkara berhubung dengan pembangunan pembinaan (projek perumahan, kompleks komersil, dan lain-lain). Diantara perkara-perkara berkenaan adalah yang berhubung dengan penrezaban tanah-tanah tertentu untuk maksud-maksud tertentu yang khusus dimana mereka hendaklah juga menyedarinya.
Bincangkan.

(25 markah)

2. *Donoghue V. Stevenson (1932) A.c. 562 per Lord Atkin*

'.... That every man must take reasonable care to avoid acts or omissions which he can reasonably fore see would likely to injure his neighbor, ie, those persons who are so closely and directly affected by his act that he ought reasonably to have the in contemplation as being so affected when he is directing his mind to the acts or omissions which are called to question, and this results in damage to the neighbor....'

Explain this statement in relation to the elements of negligence and elaborate the case of negligence in the building construction industry.

(25marks)

...3/-

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Dalam kes *Donoghue V. Stevenson* (1932) A.C. 562, hakim Lord Atkin menyatakan.....

'.... That every man must take reasonable care to avoid acts or omissions which he can reasonably fore see would likely to injure his neighbor, ie, those persons who are so closely and directly affected by his act that he ought reasonably to have the in contemplation as being so affected when he is directing his mind to the acts or omissions which are called to question, and this results in damage to the neighbor....'

Terangkan kenyataan ini berhubung dengan elemen-elemen kecuaiian dan huraikan kes-kes kecuaiian didalam industri pembinaan.

(25 markah)

3. *The shifting of risk in non-performance of work (including abandonment, defective works, work behind schedule, etc) to the 3rd party (insurance company/bank) is not uncommon in construction industry. Discuss this statement, with reference to the specific instrument from client's perspective.*

(25marks)

Pemindahan risiko dalam kerja-kerja yang tak terlaksana (termasuk ditinggalkan, kerja-kerja yang cacat, kerja lewat daripada jadual, dan lain-lain) kepada pihak ketiga (syarikat insurans/bank) bukanlah suatu yang tidak lazim dalam industri pembinaan.

Bincangkan kenyataan ini, dengan rujukkan kepada instrumen yang khusus, daripada perspektif klien.

(25 markah)

4. *To what extent the client and construction in private construction project "respect" the preservation and conservation of the natural environment?*

(25 marks)

Setakat mana klien dan kontraktor dalam projek pembinaan swasta "menghormati" pemeliharaan dan pemuliharaan alam semulajadi?

(25 markah)

....4/-

BAHAGIAN B :
SECTION B :

5. *The Arbitration clause in the standard form of contract is not being utilized as one of the instrument in solving disputes among parties in construction performance. Please give your opinion as to the correctness of the above statement, and as to the ways to make parties "aware" of the importance and usage of the said clause.*

(25 marks)

"Fasal timbangtara" dalam borang seragam kontrak tidak dimanfaatkan sewajarnya. Sebagai salah satu instrumen menyelesaikan pertikaian diantara pihak-pihak dalam pelaksanaan pembinaan. Sila berikan pendapat anda mengenai ketepatan kenyataan diatas, dan mengenai cara-cara untuk menjadikan pihak-pihak tersebut "sedar" kepentingan dan kegunaan fasal tersebut.

(25 markah)

6. *A company is in law a person. However, a company has no body to be touched and no soul to be damned, no hands with which to work and no mind with which to think. It cannot act by itself. It must work through the medium of some human being. The question is, which humans represent that entity called 'the company'? Discuss.*

(25 marks)

Dibawah undang-undang sebuah syarikat merupakan seorang individu, walaubagaimanapun sebuah syarikat tidak mempunyai jasad tubuh yang tidak boleh disentuh dan roh yang boleh disiksa, tangan untuk melakukan pekerjaan dan minda untuk berfikir. Sebuah syarikat tidak boleh bertindak untuk dirinya sendiri. Ia mesti diwakili oleh manusia.

Persoalannya ialah siapakah yang mewakili sesebuah syarikat. Bincangkan.

(25 markah)