

Examiner's report

F4 Corporate and Business Law (BWA) December 2011

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General Comments

The examination paper consisted of ten compulsory questions. Three of these questions were application questions and seven were knowledge based. Most candidates attempted all ten questions.

Performance failed to achieve a satisfactory standard in this session. Many candidates struggled to provide complete answers with a few giving skeletal answers or opting not to answer the question at all. This would have impacted on expected results. Candidates showed prepared in some areas but struggled in areas of the syllabus that do not appear often in examinations like insider dealing. Candidates are encouraged to study for, and attempt all questions in the examination paper. Candidates are also encouraged to write full answers that show their understanding of the particular area being examined.

Specific Comments

Question One

This question required candidates to discuss judicial precedent as a source of law in Botswana and to explain the advantages and disadvantages of judicial precedent. Most candidates tackled the first part of the question satisfactorily. Many however had difficulty listing all the advantages and disadvantages of judicial precedent.

Question Two

Part a) this question requires candidates to define contractual terms. This was a technical question requiring a concise answer. Many candidates found this part of the question challenging which was probably caused by inadequate study of this area of the syllabus.

Part b) required candidates to distinguish between the various classifications of contractual terms. Candidates experienced some difficulty with this part of the question which may be explained by under preparation in this area. Candidates are encouraged to cover the syllabus with care as all areas are examinable.

Question Three

This question required candidates to discuss the appointment procedure relating to auditors and to discuss the powers and duties of auditors. Most candidates tackled this question fairly well though some candidates had difficulty distinguishing between the powers and duties of auditors.

Question Four

This question required candidates to distinguish between administration and winding up of companies. Most candidates were able to give a satisfactory answer with respect to winding up. However, many candidates were unfamiliar with the requirements for administration of companies. There was also a general failure to follow the instruction to compare and contrast the two processes.

Question Five

This question required candidates to illustrate the effects of incorporation. Most candidates were able to discuss separate legal personality and limited liability with ease and cite relevant examples from famous cases in this area. This question was answered satisfactorily.

Question Six

This question required the candidates to define a share and discuss the meaning of share capital. The initial part of the question tested the candidate's technical knowledge. Answers in this part were unsatisfactory for many candidates. The latter part of the question saw candidates fare slightly better with many being able to explain share capital and discuss different types of share capital.

Question Seven

This question required candidates to discuss the meaning of delict and distinguish a delict from a breach of contract or a crime. Most candidates struggled to give a satisfactory answer to this question. Particular difficulties were experienced in trying to define a delict. The distinctions between a delict and a contract were also inadequately explained. Candidates are advised to cover all areas of the syllabus in order to be able to answer questions that examine several areas.

Question Eight

This question required candidates to discuss the concept of ostensible authority of directors. Some candidates were able to identify the type of authority under examination however, many candidates were not. Candidates answered this question with difficulty.

Question Nine

This question required candidates to discuss the employee's duty to further the employer's business. Some candidates wrote generally on employees duties and did not focus on the specific duty breached by the employee. Candidates are encouraged to make every effort to answer the question asked. Many candidates answered this question satisfactorily.

Question Ten

This question requires candidates to discuss the nature and legal control over insider dealing in Botswana. Most candidates struggled to identify the topic under examination. Candidates who were able to pick up on the area being tested gave fair answers.

Conclusion

Candidates are encouraged to cover the entire syllabus thoroughly. Candidates should also note the requirement to give a full discussion of their answer and avoid skeletal answers. Coverage of the whole syllabus is required in order to attain a satisfactory mark in this paper.