



# Examiner's report

## F4 (HKG) Corporate & Business Law For Paper Variant exams December 2015

### General Comments

The December examination had a format through which candidates were asked to answer 45 multiple choice questions in section A, worth 1 or 2 marks each, and 5 easy type questions in section B, worth 6 marks each in 2 hours. All questions were compulsory. All candidates attempted all section A questions and the great majority of the candidates answered all section B questions.

Section A questions are objective in that the correct answers had to be selected in order to earn marks. For section B questions, candidates were required to analyse the related problem scenarios and express their views in writing. The overall standard of scripts was satisfactory. There were candidates who performed well in both sections.

### Comment about Section A performance

The great majority of candidates had a satisfactory performance in all topics in this section. Areas candidates having problems with were employment law, company law and law relating to human rights.

In relation to employment law, many candidates did put the topic in their revision for the examination. As regards company law, problems mainly relate to areas being amended by the Companies Ordinance (Cap 622). To have a better performance in those areas, the future candidates should familiarise themselves with the sections of the new Companies Ordinance in relating to, for example, documents relating to the constitution of a company, concepts relating to capital, notice period for calling meeting of different kinds for different purposes as well as duties of the directors.

In relation to contract law, the majority of the candidates had a sound general understanding of topics over this area. Performance of the candidates can be improved by having a clear understanding about elements essential for the formation of contract. A number of candidates appeared to be not quite familiar with concepts about damages which the innocent party can claim against the party in default after the breach of a contract. The following is an example about the acceptance of an offer in the course of the formation of a contract:

### In relation to contract law, which of the following statements about the postal rule is/are correct?

- (1) A contract is formed when the letter of acceptance is received by the offeror
- (2) A contract is formed when the letter of acceptance without a stamp is posted
- (3) The rule applies to the communication of both the offer and the acceptance of the offer
- (4) The postal rule dispenses with the need for the communication of the acceptance

- A 3 only  
B 1 and 3  
C 2 and 3  
D 1 and 4

For the formation of a contract, there must have an offer and an acceptance of the offer. Assuming that all other conditions are satisfied, a contract is formed at the moment the offer is accepted. In general, an offer is considered to have been accepted once the offeror is actually notified of the acceptance. The notification may be made to the offeror personally by the offeree or through reasonable means.



However, the postal rule is an exception to the requirement of actual notification by the offeree to the offeror of the acceptance. One important aspect of the postal rule is that it only applies to the communication of acceptance; it does not apply to the communication of an offer. Under the postal rule, provided that the letter of acceptance is properly stamped and other information on the letter is correct, communication of the acceptance is completed once the offeree delivers the letter at the post office. In other words, the contract forms at the moment the letter is delivered even though the offeror has no knowledge about the time when the letter is posted and even the offeror has never received the letter.

Accordingly, the correct answer to the question is D.

### **Comment about Section B performance**

Performance of the candidates in section B is weaker than their performance in section A. It appears that a number of the candidates had not included the topic about the power exercisable by the directors of a company in their revision.

In relation to the issue of remoteness of damage in tort law, a number of candidates mixed up the issue of remoteness of damage with the issue of causation. Future candidates should note that the issues of remoteness of damage and the issue of causation are different. The former is about the kind of damages that the tort-feasor needs to be responsible for, and, for the latter, it is about whether the defendant is liable for the tort in question.

Future candidates could improve their performance in this section by offering a brief explanation about the related concepts in their answers and write more clearly about the application of the related law to the facts of the problem scenario.

### **Conclusion**

Overall, the candidates had a satisfactory performance in the paper. Performance of the candidates was better in section A than their performance in section B. Regarding Section B, a number of candidates just wrote down their answer with very brief explanation about the related law.

To have better performance, future candidate should familiarise with the new Companies Ordinance Cap 622 over the areas about the constitution of a company, concepts relating to capital, notice period for calling meeting of different kinds for different purposes as well as the duties of the directors. Besides, future candidates should give more time in employment law in their revision for the paper.