



# Examiner's report

## F4 (HKG) Corporate & Business Law For Paper Variant exams December 2016

### General Comments

In this paper, the candidates were required to answer 45 multiple choice questions in section A, worth 1 or 2 marks each, and 5 analysis 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 of the paper.

### Comments about Section A performance

Most candidates had a satisfactory performance over all topics in this section. Areas that candidates had problems were company law about the topics relating to company's capital and procedures for holding meetings. Takeover of a company was also an area that candidates had difficulty with.

Most candidates performed well in contract law. There were candidates having problems in those principles adopted by the court in granting damage for the breach of contract. Besides, the great majority of candidates seemed not quite clear about the nature of tort law.

The following examination question tested the candidates in their knowledge about the nature of tort law.

### Which of the following about tort law is true?

- A It is for protecting the physical integrity of a person
- B There exists a contractual relationship between the victim and the wrongdoer
- C A victim can claim pure economic loss

Tort law involves the breach of a civil duty imposed by common law, i.e., case law or statutory law, i.e., ordinances. A person commits a tort when the person breaches the duty by causing bodily harm to individual and/or damage to property. In other words, the main purpose of tort law is to protect the physical integrity of individuals or property owned by the individuals.

Since the commission of a tort involves the breach of a civil duty, tort law is therefore about the commission of a civil wrong. As such, the tortfeasor is only required to compensate for the injury suffered by the victim. Tort law is different from criminal law when criminal law is mainly for punishing those committing crimes.

Tort law is different from contract law. In tort law, it is the law that imposes duties on individuals. In contract law, the duties of the contracting parties are regulated by the contractual terms determined by the parties themselves. As the purpose of tort law is aimed at protecting the physical integrity of individuals and their properties; compensation in tort law is therefore confined to those aspects and that is why pure economic loss suffered by the victim of a tort is not compensated for. In contract law, the compensation to the innocent party for the breach of contract is for the party's loss of the bargain, which is the result of the contracting parties' agreement and is fundamentally economic by nature.

By reason of the foregoing, answer to the question is therefore 'A'.

### **Comments about Section B performance**

Performance of the candidates in section B was also satisfactory. Some candidates mixed up the fiduciary duties and common law duty of care of directors of a company. Future candidates have to bear in their mind that fiduciary duty stems from the concept of trust in equity whereas common law duty of care rests on the tort of negligence, which is created by common law.

### **Summary**

Overall, the great majority of candidates had performed well in this paper. Most of the candidates had performed well in both of section A and section B. For section B questions, most of the candidates did attempt to apply their knowledge to solve the problems, which reflected that the candidates had clear understanding in what they had learnt.