

Examiner's report

F4 (MYS) Corporate & Business Law

For Paper Variant exams December 2015

General Comments

The aim of this report is to provide feedback on the performance of candidates in the December 2015 examination. It identifies areas of weakness and considers ways to enhance performance in the future.

The paper was divided into two parts. Section A consisted of multiple choice questions (MCQs). There were 45 questions carrying a total of 70 marks. Of these, 25 questions carried 2 marks each and 20 questions carried 1 mark each. Section B consisted of 5 short scenario based questions carrying 6 marks each which tested candidates' ability to identify and apply the law to the given scenarios. Both parts were compulsory.

Candidates performed quite well in the paper. Although there was a sizeable minority who were inadequately prepared for the examination, a large majority performed satisfactorily in Section A. There was no problem associated with examination technique for Section A as it was MCQ based. Section B only required simple direct answers. Hence examination technique was also not really a significant issue. Candidates were able to perform satisfactorily marks so long as they could identify the relevant issue and state the law correctly.

Comments about Section A performance

Section A was very satisfactorily answered. The results indicated that candidates were quite well prepared for this part. As the questions come from all parts of the syllabus, candidates could only do well in this part if they had studied across the syllabus and not selectively. The performance of the candidates showed that they had studied appropriately. Questions on employment law and some on contract law were very well answered. Of course, as usual there were some questions which were inadequately answered. These include the topics of winding up of companies and limited liability partnerships. One example is question 30 which related to the topic of limited liability partnership. The question read:

30 What is the MAXIMUM number of partners in a limited liability partnership?

- A 20
- B 50
- C Unlimited

The correct answer is C. However the great majority gave A as the answer. Only a small minority gave the correct answer, C. Some may have merely made a lucky guess. This is an indication that most candidates had not studied limited liability partnerships. This is a new form of business enterprise that has been introduced by virtue of the Limited Liability Partnerships Act 2012. It combines some of the features of a company and some of the features of the conventional partnership. It enjoys legal personality in that, just like a company, it is also separate and distinct from its members. Unlike the conventional partnership which can only have a maximum of 20 members (unless it is a professional partnership) the number of members in a limited liability partnership is unlimited. As this is a fairly new form of business enterprise, candidates can expect further questions on this topic in future examinations. It would be very advisable for candidates to equip themselves with adequate knowledge in this area.

Candidates are also advised to equip themselves with adequate knowledge of the law in the various topics of the syllabus in order to stand a higher chance of doing well. Studying selected topics only in sufficient detail or studying superficially over a broader range of topics, may result in weaker overall results. Candidates are also

advised to read each question very carefully before choosing an option. Guessing the answer is very risky as it is often wrong.

Comments about Section B performance

Section B consisted of 5 short scenario-based questions carrying 6 marks each. Each question was further divided into two or three parts. Questions came from across the syllabus. The questions were designed to test the candidates' ability to identify the legal issue, explain the law on that issue and to apply the law to the given scenario and to give a sound conclusion.

Candidates' performance in this part was satisfactory. A number of candidates answered well. Generally they were able to identify the legal issues, correctly explain and apply the law and come to a sound conclusion.

However, there was also a sizeable number of candidates who did not do well as they had not prepared well for some topics. Question 5 is an example of this. The question related to the offences of giving and receiving gratification, under the Malaysian Anti-Corruption Commission (MACC) Act 2009. Most candidates had clearly not studied this topic. While most who answered the question were able to recognise that there was some wrongdoing like giving a bribe, they were unable to relate the wrongdoing to the MACC Act even though the question expressly referred to that Act. In the given scenario Ali had given some money to Kow Tim, a bank officer, as an inducement to delay the auction by the bank of his property for failure to pay outstanding instalments. Kow Tim had accepted the money. Candidates were expected to recognise that under the MACC Act this involved the offences of giving and receiving gratification. Under the Act, any person who corruptly gives, promises or offers to any person any gratification as an inducement or reward to do or not to do something commits an offence. Likewise the person receiving or agreeing to receive the gratification also commits an offence. Unfortunately most candidates were not knowledgeable on this. Some candidates incorrectly identified the issue as fraudulent trading. Yet others discussed the issue as one involving breach of fiduciary duty. This area of the law is an area which does not appear to be popular among candidates. However candidates are reminded that this area of the syllabus is likely to be tested more frequently in the future and are well advised to pay more emphasis to it in the future.

Another example of a question where a sizeable number of candidates did not perform as well as expected was question 1 on the law of partnership. In particular, it tested the candidates' knowledge on a limited liability partnership. It contained two parts. Part (a) was very direct. It required candidates to describe two advantages of the limited liability partnership over a conventional partnership. Although the large majority of the candidates mentioned at least two advantages and obtained the two marks available for the question, surprisingly there was a number who were not able to state two advantages. Most of this group only mentioned separate legal personality and obtained one mark. As for part (b) which carried four marks, it required the candidates to explain whether a conventional partnership could later be converted into a limited liability partnership with the same name as the conventional partnership. This part was not answered as well as expected. Candidates were expected to state that a conversion could only be done if first all the partners of the limited liability partnership are also all the partners of the conventional partnership. Further, certain documents are required to be lodged with the Registrar and the conversion can only be done with the approval of the Registrar. In addition, the limited liability partnership must have a name which ends with the abbreviation PLT (Perkongsian Liabiliti Terhad), which means limited liability partnership. Thus the present name of the conventional partnership could not be retained. Many candidates stated that it could be converted but did not state the other limitations. Perhaps they failed to read the question properly to understand the full scope of the question. Candidates are once again reminded that this area on limited liability partnership is quite new and they ought to prepare themselves more adequately on this topic.



Conclusion

Candidates are reminded of the need to be well prepared for the examination. It would be too risky to study selected topics only. They should read the questions carefully to avoid making the mistakes referred to above. Issues must be accurately identified and the law must be correctly applied to be able to give sound advice. Candidates are not expected to write lengthy answers. So long as they are able to identify and explain the issue briefly and apply it to the given problem accurately they will obtain satisfactory marks.