



# Examiner's Report

## F4 MYS Corporate & Business Law

### June 2015

#### Introduction

This report aims to provide feedback on the performance of candidates in the June 2015 examination. It identifies weaknesses and considers ways to improve future performance.

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 generally performed well in the paper. There was no real issue on examination technique as Section A was MCQ based. Section B only required simple direct answers. Hence examination technique was also not a significant issue. So long as candidates could identify the relevant issue and state the law correctly they were able to perform satisfactorily.

#### Comments about Section A performance

Section A was very well answered. 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. Of course, as usual there were some questions which were inadequately answered. One example is question 25 which related to the topic of winding up of companies. The question read:

#### 25 Which of the following is the consequence of a winding up order?

- (1) No action can be commenced against the company except with the leave of the court
- (2) All floating charges will crystallise and become fixed
- (3) The liquidator assumes the functions of a receiver appointed by any debenture holder under any charge over the assets of the company

- A (1), (2) and (3)  
B (1) and (2) only  
C (3) only  
D (2) and (3) only

The correct answer is B. However, the vast majority of candidates chose option A. This indicates that most candidates did not fully understand the functions of the receiver as opposed to the functions of a liquidator. The function of a receiver appointed by a debenture holder (creditor) is to realise the assets

subject to the charge in favour of that creditor only. The liquidator, on the other hand, functions for the benefit of all the creditors. Thus, if a creditor appoints a receiver and subsequently, another creditor appoints a liquidator, the receiver will continue the receivership under the supervision of the liquidator. The liquidator does not assume the functions of the receiver. Thus, (3) is not a consequence of the appointment of a liquidator. Most of the candidates did not realise this difference and thus got the answer incorrect.

Candidates are advised to equip themselves with adequate knowledge of the law in the various topics 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 incorrect.

### **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. Candidates were expected to identify the relevant issue, apply the law and conclude on the issue.

A number of candidates fared well and obtained satisfactory marks. Generally they were able to identify the issues and come to a sound conclusion.

In some cases, candidates were not able to do well as they had not prepared well for the topic. For example, question 1 which was on money laundering. Most candidates had not sufficiently prepared for this topic. It was always in the syllabus but no questions had previously been set on it. Candidates may have thus chosen to pay less attention to it. Candidates were generally not able to define money laundering. The question contained two parts. It related to a scenario where a person, James, receives a parcel containing money, and has it deposited into his bank account, with the help of Jack, an officer of the bank. Part (a) of the question required the candidates to explain whether James had committed an offence under the Anti- Money Laundering and Anti-Terrorism Financing Act 2001, while part (b) required the candidates to explain whether Jack had committed any offence under that Act.

Candidates should have defined what constitutes money laundering and then applied it to the scenario to determine whether James had committed an offence. Further, candidates should have differentiated between the offence of money laundering and the offence of abetting the commission of money laundering. In the case of Jack, he had committed an offence by abetting the commission of money laundering by James.

Many of the candidates merely stated that both James and Jack had committed the offence of money laundering without explaining why. Thus they did not earn sufficient marks. Candidates were clearly less prepared for this topic. Candidates are reminded that they should pay attention to the full scope of the syllabus as questions could be set from anywhere within.

Another example of a question where a sizeable number of candidates failed to identify the issue was question 2 on the law of contract, which also contained two parts. Part (a) touched on the issue of certainty of subject matter as an element of a valid contract. The question referred to a situation where a lease had been offered by Tom to Ken, “for as long as Ken wishes”. While many candidates correctly identified the issue and gave correct advice, there were a number who failed to identify the issue. They merely said that Tom had made an offer to Ken, who duly accepted the offer, and thus a valid contract arose.

As for part (b), it related to the issue of counter-offer. Tom had offered to sell his pen collection to Ken for RM20,000. Ken replied that he was willing to pay RM15,000 for it. This amounted to a counter-offer by Ken, which had the effect of rejecting the original offer. Thus, no contract arose between Ken and Tom when Ken stated that he was willing to accept the original offer by Tom. Most of the candidates identified the issue correctly. As usual there were a few who could not identify the issue.

### **Conclusion**

Candidates are reminded of the need to be well prepared for the examination. 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.