



Examiner's report

F4 (SGP) Corporate & Business Law

For Paper Variant exams December 2015

General Comments

The purpose of this report is to provide feedback on the performance of candidates in the December 2015 examination. It identifies strengths and weaknesses demonstrated by the candidates, and also highlights best practices that those presenting themselves for the examination in the future should consider in order to maximise their prospects of success.

The December examination requires candidates to answer 45 multiple-choice questions in Section A, worth 1 or 2 marks each, and 5 short questions in Section B worth 6 marks each, in a total of 2 hours. All questions are compulsory. The multiple-choice questions are objective in that the correct answers had to be selected in order to earn marks. The short questions are also objective in the sense that the candidates had to focus on what was asked and answer it exactly to the point. No marks were given for candidates who discussed more issues than what was required in the question. The overall performance in the examinations can be improved through more thorough preparation for the examinations.

Syllabus topics on which candidates performed well included law and the legal system, formation of a contract, tort of negligence, administration of companies and share capital.

Syllabus topics on which candidates performed inadequately included contents of contract, remedies for breach of contract, fraud, minority shareholder rights and winding up.

While there is little evidence to suggest that the examination is actually time pressured, it is significant that some candidates did not attempt all of the questions, and in some cases this may have been the difference between success and failure. Even if the candidate is not certain of the correct answer, by reading and considering the choices carefully it is often possible to eliminate some of them, enabling an informed decision to be made. There is no good reason for leaving questions unanswered in an examination of this type.

Section A

The following are examples of questions which candidates some experienced difficulty.

Question 9

Which of the following statements about a term of a contract is correct?

- A A breach of a term does not allow the innocent party to rescind the contract
 - B A term is any statement made in the course of negotiations of a contract
 - C A breach of either a term or a representation will give the innocent party the right to terminate the contract
- (1 mark)**

Many candidates did not choose the correct option, A, for this question which tested them on the law concerning terms of contract. They appear to be unclear about 1) the differences between a term and a representation ; 2) the effects of breach of contract (where termination of contract is a possible remedy) and misrepresentation (where rescission of contract is a possible remedy).

Question 45

Which of the following is NOT an element of the offence of insolvent trading?

- A The accused must be an officer of the company
- B The accused must have incurred debts on behalf of the company when there was no reasonable prospect of those debts being paid
- C The accused must have incurred debts on behalf of the company when they knew those debts could not be repaid

(1 mark)

While options A and B are both elements of the offence of insolvent trading, B is the test on whether insolvent trading has taken place. Candidates who read options B and C would have noticed that option B sets out an objective test as to whether there is a reasonable basis for the debt incurred to be repaid, whereas option C sets out a subjective test as to whether the accused knew the debts could not be repaid. Candidates, when reviewing study materials, should pay attention to the key elements of statutory or common law rules. In this case, the candidates who chose the wrong option probably do not recall the specifics of the applicable test for insolvent trading.

Section B

When attempting the short questions in Section B, candidates must be aware that their answers have to be clear, unambiguous and to the point.

Where the question required the candidate to state or explain the law, there are some candidates who wasted valuable time by stating all the principles they have learnt on the particular topic, when it was only necessary to state or explain one or two relevant principles as required by the question. There is no merit or marks given for stating irrelevant principles.

On the other hand, there are some candidates who do not state any legal principles at all in their answers. It is hoped that candidates remember this is a law examination, not an examination of common sense or an examination where rephrasing the question as an answer will garner them marks or an examination where regurgitating the facts from the question without stating any legal principles will garner marks. When required to state or explain the law, for example, "explain the elements of the tort of negligence?", it will not do to state X in the question should have done this or X should have checked that or Y is not negligent because it is X's fault. A question of this nature simply requires the candidate to simply state the legal ingredients of negligence, namely, a duty of care is owed, there is a breach of duty of care and damage is caused. A 3-point answer like this will gain the candidate 3 marks. A full-page answer that has no legal principle will not gain the candidate any marks.

Sometimes the question goes further and requires the candidate to apply the principles to the facts of the case. It is observed that many candidates regurgitate the principles they learnt without understanding or explaining how the principles resolve the issues raised in the hypothetical scenario. It is also observed that a large number of candidates often appeal to some idea of 'common sense' or 'fairness' rather than a legal principle to resolve the issue. It is hoped that candidates will note that this is a law examination and they are expected to know relevant legal principles and apply them to a hypothetical scenario. The objective of the examination is not to ask what the candidates think makes good common sense or is fair.

Conclusion

The examination paper is broad-based, requiring a relatively fundamental knowledge of many theories, concepts and practical applications. In order to pass it is not necessary to know any individual topic in great depth but it is necessary to know the basic principles associated with every topic in the syllabus.

Candidates should attempt all questions. While it is recognised that few individuals will be fully prepared to deal with every question, it should be possible to make a reasonable attempt at every question. Sometimes, distractors can often be eliminated by a process of deduction. But this process of deduction would require some basic knowledge of legal principles.

It is vitally important that candidates read the questions in Section B carefully. Too many candidates answered the questions by writing narrative answers that were of no benefit and wasted valuable time by offering detailed responses that are irrelevant. Since each sub-part is worth 2 or 3 marks only, it is only necessary to focus specifically on what the question required, which usually involves either stating or applying one or two legal relevant principles.

It is hoped the candidates will exercise good time management. Candidates should spend an adequate amount of time reading the multiple choice questions and their options carefully. They should not rush through the multiple choice questions only to spend a large amount of time writing copious answers to the short questions, which do not garner them marks if they are not relevant to the question.

It is hoped that candidates note the importance of reviewing the study materials before the examinations. Because the examination has a 70% multiple-choice component does not make it easy to guess the correct option. For many candidates, whether they pass or fail the examination depends very much on their score for Section A. The only way to obtain a high score for Section A is to study the legal principles carefully and thoroughly.