



Examiner's report

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

General Comments

The examination consisted of two sections. Section A consisted of 45 compulsory multiple choice questions. Section B consisted of 5 compulsory, longer type questions (with sub-divisions). Section A was worth 70 marks and Section B 30 marks. Candidates had two hours to complete the examination paper.

Candidates are expected to be acquainted with the whole of the syllabus.

In Section A the majority of candidates performed satisfactory. Candidates should have a sound knowledge of the syllabus to be able to answer these types of questions. It seems that most were able to do that.

In Section B a few candidates did not attempt all of the questions. Where questions were left unanswered by candidates, this appeared to be due to a lack of knowledge or inadequate exam technique, as opposed to time pressure.

In previous years candidates tended not to answer questions in the order they are asked, but rather to attempt the questions they are more comfortable with first. This was mostly not the case this year.

A number of common issues arose in candidate's answers:

1. Failing to read the question requirement clearly and therefore providing irrelevant answers which scored few if any marks.
2. Inadequate time management between questions. Some candidates wrote far too much for some questions and this put them under time pressure to finish remaining questions.
3. Not answering all of the questions. This might be due to inadequate time management as well as a lack of knowledge mentioned above.
4. Not learning lessons from earlier examiner's reports and hence making the same mistakes.

Syllabus topics on which candidates performed well included the liability of auditors and fraudulent and reckless trading. Syllabus topics on which candidates performed inadequately included financial assistance and the application of the mutual mandate doctrine in the context of partnerships.

Comments about Section A performance

Candidates generally performed well in this Section. It is important that candidates read these questions very carefully. Candidates need to make sure whether they should indicate the correct option or the incorrect option. They also need to pay attention to combination answers, where one or more of the options given might be correct (or incorrect).

Candidates were unable to answer Questions 1, 16, 26 and 38. Please see below for some comments on Question 1.

Question 1

Which of the following statements in relation to a contract of employment is/are correct?

- (1) It may be renewed impliedly
- (2) It must be for a period of at least three years



(3) It must provide that wages and salaries are paid in cash rather than in kind

(4) Due to its specific nature, it does not have to comply with the general requirements for the conclusion of a valid contract

A (1) only

B (4) only

C (2) and (3)

D (1) and (4)

The correct option is **A** as (1) is the only correct statement. This question concerns the law of employment. No candidate was able to answer this question. Option (1) is the only correct option. Option (2) is not correct as a contract of employment has no prescribed time period. Option (3) is also incorrect as wages and salaries can be paid in cash or kind. Option 4 is incorrect as a contract of employment also has to comply with the general requirements of a valid agreement.

Question 26

In the context of contractual terms, which of the following statements relating to naturalia is/are correct?

(1) It is terms which the law attaches to every contract of a particular class

(2) Its operation may be excluded by agreement between the parties

(3) It identifies a particular contract as belonging to a particular class of contract

A (1) only

B (1) and (2)

C (2) and (3)

D (3) only

The correct option is **B** as Options (1) and (2) are correct. Option (3) is incorrect as it relates to essentialia of a contract. Candidates should ensure that they know the meaning of the following contractual terms: essentialia, naturalia and incidental. Based on the ability of candidates to answer this question it is clear that they do not understand the differences between these contractual terms.

Candidates also performed inadequately in questions dealing with the intention to be bound by a contract and voluntary liquidation of a solvent company.

Comments about Section B performance

The majority of the candidates answered the questions asked in Section B in a disappointing manner. It might be that candidates spent too much time on Section A resulting in them not having enough time to do Section B properly.

In this paper candidates specifically struggled with a question on the concept of mutual mandate of a partnership. Most candidates discussed the essentialia of a partnership agreement. It seems that candidates did not read the question properly.



Candidates are still struggling with questions based on the Companies Act 2008, especially where the common law is still applicable. Company law is an important part of the work, especially based on the new rules brought about by the Companies Act 2008, and candidates must make sure that they understand this part of the syllabus. Candidates also struggled to answer questions on financial assistance satisfactorily. The Companies Act 2008 (Section 44) regulates the situation where a company provides financial assistance for the acquisition of the company's securities. Candidates should ensure that they are familiar with the legislative provisions stating under which circumstances the provision of financial assistance is allowed. Candidates must always read questions very carefully, especially in the context of financial assistance. Candidates can be asked to explain the meaning of financial assistance and can also be tested on whether or not a specific set of facts contributes financial assistance and whether it qualifies as financial assistance. Candidates should be able to explain whether it is allowed based on the requirements in the Companies Act 2008.

Conclusion

The performance of candidates relating to Section A of the December 2015 session was encouraging.

The performance in Section B was less satisfactory. 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.