



# Examiner's report

## F4 (ZAF) Corporate and Business Law

### For Paper Variant exams June 2016

#### 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 satisfactorily. 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 the performance was generally unsatisfactory. 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 candidates' answers:

- Failing to read the question requirement clearly and therefore providing irrelevant answers which scored few if any marks.
- Inadequate time management between questions. Some candidates wrote far too much for some questions and this put them under time pressure to finish the remaining questions.
- Not learning lessons from earlier examiner's reports and hence making the same mistakes.

Syllabus topics on which candidates performed well included the mutual mandate principle applicable to partnerships and directors' duties. This has been an improvement to previous years. Syllabus topics on which candidates performed poorly included financial assistance and fraudulent and reckless trading.

#### 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 are required to 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 had particular difficulty with Questions 12, 24, 33 and 37. Please see below for some comments on Question 37, which counted 2 marks.

37 Joan donates a house to Chris, subject thereto that Chris is only allowed to use the house as a nursery.

What type of term did Joan include in the contract?

- A A resolutive condition
- B A modus
- C A penalty clause
- D A supposition

The correct answer is (B). It is unclear why candidates were not able to answer this question. This is clearly an example of a “modus” as a modus is a contractual term which burdens a contracting party’s right to performance made to him or her in terms of the contract. This example was taken from the textbook.

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

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

Candidates struggled to answer questions on financial assistance satisfactory. 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, they can also be tested on whether or not a specific set of facts contributes financial assistance and if 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**

While the performance of candidates relating to Section A of the June 2016 session was reasonable, the performance in Section B was less satisfactory. 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.