



Examiner's report

F4 Corporate and Business Law (CYP) December 2014

Introduction

The purpose of this report is to provide feedback on the performance of candidates in the December 2014 examination. It identifies strengths and weaknesses demonstrated by 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 introduced a new format through which candidates were asked to answer 45 questions, worth 1 or 2 marks each (Section A), and 5 further questions worth 6 marks each (Section B) in 2 hours. All questions were compulsory. Questions in Section A were objective in that the correct answers had to be selected in order to earn marks. Questions in Section B required candidates to explain their answers in writing. The overall standard of scripts was reasonable and the pass rate encouraging, suggesting that the vast majority of candidates had prepared well for the examination.

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 requirement. As mentioned in Section A below, distractors can often be eliminated by a process of deduction.

Syllabus topics on which candidates performed very well included court structure, formation of contract, partnerships, contract of employment, dismissal and redundancy, the law of torts and company directors.

Syllabus topics on which candidates performed poorly included sources of law, contents of contracts and compulsory liquidation.

There was no evidence to suggest that the examination was time pressured, given that the vast majority of candidates attempted all questions in both Section A and Section B.

There was no evidence that there were any questions which had been so worded that candidates failed to understand what they were required to do.

Section A

Most candidates attempted all questions in Section A. It is emphasised that even if a candidate is not certain of the correct answer, by reading and considering the choices provided 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, as in some cases this may be the difference between success and failure.

One question with which candidates experienced difficulties is discussed below.

Question 18

In relation to the availability of specific performance in the case of breach of contract, which of the following statements are true?

- (1) It is available only where damage would be an inadequate redress
- (2) It is available in contracts for personal service
- (3) It is generally only available if the contract is in writing



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

The correct answer is B.

Specific performance is an equitable remedy which may be available in case of breach of contract. Specific performance is a discretionary remedy which enables the court to order the party in breach to carry out their obligations under the contract – in other words to require the defaulting party to perform the contract.

Specific performance will only be granted by the court when it is just and equitable to do so. Therefore, specific performance will not be granted where damages are an adequate remedy – hence statement (1) above is TRUE.

Similarly, specific performance will not be ordered of a contract of personal services, such as an employment contract, on the basis that it will be contrary to public policy to force an unwilling party to maintain continuous personal relations with another – hence statement (2) above is FALSE.

Moreover, on the basis of s.76 Cyprus Contracts Law Cap. 149, a contract is capable of being specifically enforced by the court if, inter alia, it is expressed in writing – hence statement (3) above is TRUE.

This question was answered unsatisfactorily by candidates.

Section B

Section B comprised five questions worth six marks each. It is vitally important that candidates read the questions carefully. Too many candidates answered questions by writing narrative answers that were of no benefit. For example, some candidates answered these questions by reiterating general information on the subject-matter of the question, without attempting to respond to the specific question asked.

For example, question 2 asked candidates to identify the liability of various partners in the given problem-scenario. The correct answer required candidates to indicate whether the specific partners would be deemed liable for the outstanding debt or not.

Candidates should also consider the importance of all facts presented in the problem-scenarios. For example, the fact that Wallace, who joined the partnership as a limited partner, was involved in the management of the partnership meant that he would be treated as a general partner and therefore would have full personal liability for the partnership's debts.