

Fundamentals Level – Skills Module

# Corporate and Business Law (Global)

Monday 10 June 2013



**Time allowed**

Reading and planning: 15 minutes

Writing: 3 hours

ALL TEN questions are compulsory and MUST be attempted.

**Do NOT open this paper until instructed by the supervisor.**

**During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.**

**This question paper must not be removed from the examination hall.**

**The Association of Chartered Certified Accountants**

Paper F4 (GLO)

**ACCA**

**ALL TEN questions are compulsory and MUST be attempted**

**1 Explain the meaning and role of the following organisations:**

(a) **UNCITRAL;** (6 marks)

(b) **UNIDROIT.** (4 marks)

**(10 marks)**

**2 In relation to the UNCITRAL Model Law on International Commercial Arbitration:**

(a) **explain the circumstances under which arbitration awards may be enforced;** (3 marks)

(b) **state the grounds on which arbitration decisions and awards may be refused by the courts.** (7 marks)

**(10 marks)**

**3 Explain the seller's obligations in respect of requirements as to the quality of goods supplied under Article 35 of the UN Convention on Contracts for the International Sale of Goods.**

**(10 marks)**

**4 In the context of the regulation of criminal behaviour under the United Kingdom Bribery Act 2010, explain:**

(a) **the meaning of bribery;** (2 marks)

(b) **the FOUR categories of offences;** (6 marks)

(c) **the defence of adequate procedures.** (2 marks)

**(10 marks)**

**5 In relation to the rules governing the payment of company dividends, explain:**

(a) **how dividends may be properly funded;** (4 marks)

(b) **the rules which apply to public limited companies;** (3 marks)

(c) **the consequences of any dividend being paid in breach of the rules.** (3 marks)

**(10 marks)**

**6 In the context of company law, explain the meaning of the following duties owed by directors to their companies:**

(a) **the duty to promote the success of the company;** (3 marks)

(b) **the duty to exercise reasonable skill, care and diligence;** (4 marks)

(c) **the duty to avoid conflicts of interest.** (3 marks)

**(10 marks)**

**7 In relation to international business transactions, explain the meaning of the following terms:**

**(a) bill of lading;** (5 marks)

**(b) bill of exchange.** (5 marks)

**(10 marks)**

**8** In June 2012, Anton, a Belgian clothing manufacturer, entered into a contract to supply winter clothing to Bon, a Dutch buyer. The clothes were to be delivered by 25 September 2012 and the payment was to be made in full by 25 October 2012.

Anton delivered the clothing on time and on seeing the excellent quality, Bon was impressed. As a result, Bon entered into a second contract with Anton, on 1 October, for Anton to supply his next summer range of clothing to be delivered on 25 March 2013. The payment under the second contract was to be made in full by 25 April 2013. However, Bon did not make the full payment due for the original contract, in spite of Anton pressing for payment. As a result, Anton informed Bon that he would not supply the summer clothing, under the second contract, unless he received full payment for the first order. As a result, Bon's business stood to lose a considerable amount of money as it would have no new clothes for its summer range.

Also in October 2012, Anton entered into a contract with Con to provide summer clothing for his retail business, to be delivered on 1 March 2013. However, in January 2013 Con wrote to Anton informing him that he no longer required Anton's clothes as he had found a better manufacturer and would be giving that person the task of producing his summer range of clothes. By the time he received the information from Con, Anton had already expended a considerable amount of money on preparing the clothes for Con's contract.

**Required:**

**In the context of the UN Convention on Contracts for the International Sale of Goods, paying particular attention to the effect of Article 71 relating to anticipatory breach:**

**(a) advise Bon as to the possibility of taking action against Anton for his refusal to supply the summer clothing;** (7 marks)

**(b) advise Anton what action he can take against Con.** (3 marks)

**(10 marks)**

- 9** In 2008, Dee, Fi, Gee and Ki formed a private limited company to pursue chemical research. They each took 100 shares in the company and each of them became a director in the company. The articles of association of the company were drawn up to state that Dee, a qualified accountant, was to act as the company secretary for a period of five years, at a yearly salary of \$20,000.

In May 2012, Fi, Gee and Ki discovered that Dee had passed on some research results to a rival company.

As a consequence Fi, Gee and Ki propose the following measures:

- (a)** to remove Dee from the board of directors; (2 marks)
- (b)** to dismiss Dee from her post as company secretary without any payment for the work she has already done, in spite of Dee's claim that she has a contract of employment by virtue of the articles of association and that she cannot be removed before the five-year period is completed; (4 marks)
- (c)** to alter the articles of association to require Dee to sell her shares to them. (4 marks)

**Required:**

**Advise Fi, Gee and Ki as to the legality of the above proposals and how they may be achieved.**

**Note:** The split of the mark allocation is shown against each of the proposals above.

**(10 marks)**

- 10** In January 2011, Han, Ita and Jo formed a partnership, under the Partnership Act 1890, to run a pottery business trading under the name HIJ Potteries. On formation, Han introduced \$6,000 into the business, Ita introduced \$3,000 and Jo introduced \$1,000. All of them took an active part in the operation of the business and the partnership agreement stated that all profits and losses should be divided in proportion to the capital contribution. However, as Jo was the person who would actually be making the pottery, it was agreed that she would not be liable for any more than her initial contribution towards any future debts. After some time, Han provided the partnership with a loan of \$1,000 in order to sustain the operation of the business.

Unfortunately, the business was not successful and made significant losses. The partners concluded that it would be best to stop trading and dissolve the partnership. Its assets were worth \$5,000 and its external debts were \$9,000.

**Required:**

**In the context of the particular form of the partnership, explain the potential liabilities of Han, Ita and Jo for the partnership debts.**

**(10 marks)**

**End of Question Paper**