

Fundamentals Level – Skills Module

Corporate and Business Law (Hong Kong)

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 (HKG)

ACCA

ALL TEN questions are compulsory and MUST be attempted

- 1 Explain the following:**
 - (a) Common law and equity; (5 marks)
 - (b) Ordinance and delegated legislation. (5 marks)

(10 marks)

- 2 In relation to the law of contract:**
 - (a) Explain the rule governing the discharge of a contract by performance; (2 marks)
 - (b) Explain the exceptions to the discharge of a contract by performance. (8 marks)

(10 marks)

- 3 In relation to agency law, explain the following:**
 - (a) Express authority; (3 marks)
 - (b) Implied authority; (4 marks)
 - (c) The liability of an agent when the agent acts outside the scope of their authority. (3 marks)

(10 marks)

- 4 In relation to corporate governance:**
 - (a) Explain the concept of corporate governance; (3 marks)
 - (b) Describe the bases or sources from which the rules relating to the corporate governance of a company derive. (7 marks)

(10 marks)

- 5 In relation to the management of a company, explain:**
 - (a) The power of the company auditor; (5 marks)
 - (b) The procedure for the resignation of the company auditor. (5 marks)

(10 marks)

- 6 In relation to the formation and constitution of business organisations, explain the formation and the liabilities of the members of the following organisations:**
 - (a) Partnership; (5 marks)
 - (b) Limited partnership. (5 marks)

(10 marks)

7 Explain the statutory control over bribery in the Hong Kong Special Administration Region.

(10 marks)

- 8** Beauty is an accounts clerk working in a famous local accounting firm. The employment contract between the parties has the following provisions:

Within the effective period, Beauty shall not be entitled to have maternity leave ('the Maternity Leave Clause').

Within three years immediately after the termination of the contract, Beauty shall not work for any other local accounting firm within the territory of the Hong Kong Special Administration Region ('the Working Clause').

The employment contract is a continuous contract.

Required:

In relation to employment law, advise Beauty as to the enforceability of the Maternity Leave Clause and the Working Clause.

(10 marks)

- 9** Allan has been the director of a company for several years. Allan does not hold any shares of the company. The articles of association of the company provide, among others, that the monthly salary of the company's directors shall be HKG \$0.3 million.

The company had paid Allan HKG \$0.3 million as his monthly salary ever since his appointment. However, due to the financial downturn in the Hong Kong Special Administrative Region three months ago, the company started to pay Allan only HKG \$0.1 million as his salary.

Allan has a written contract of employment; however, it does not mention his salary.

Required:

In relation to company law and the effect of the articles of association, advise Allan as to his right to claim against the company for outstanding salaries payment.

(10 marks)

- 10** Land Development Ltd is a company in the business of constructing buildings for residential purposes and selling the flats in the buildings to the public.

Land Development Ltd has two buildings, namely, Building A and Building B. Flats in the two buildings are now for sale. Last week, the company executed two debentures by way of two charges, i.e. the first charge and second charge, in favour of a bank.

Under the first charge, the bank agreed to lend to Land Development Ltd HKG \$5 billion with the unsold flats in Building A as security for repayment.

Under the second charge, the bank agreed to lend to Land Development Ltd HKG \$10 billion with the unsold flats in Building B as security for repayment.

The second charge further provides, among others, that Land Development Ltd shall not sell or dispose of those flats related to the second charge without prior approval from the bank ('the Restriction Clause').

Required:

In relation to company law, advise Land Development Ltd as to the nature of the first and the second charge.

(10 marks)

End of Question Paper