

Fundamentals Level – Skills Module

# Corporate and Business Law (Malaysia)

Monday 18 June 2012



**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 (MYS)

# ACCA

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

- 1 In the context of the Malaysian legal system:**
  - (a) explain and distinguish between private law and public law; (4 marks)
  - (b) explain and distinguish between legislation and delegated legislation; and (4 marks)
  - (c) state TWO reasons for the increase in popularity of delegated legislation. (2 marks)

**(10 marks)**
  
- 2 Under employment law, an employee may be dismissed for misconduct after 'due enquiry'. In this context:**
  - (a) state FOUR guiding principles which ought to be followed to constitute a 'due inquiry'; and (4 marks)
  - (b) explain the remedies available to an employee who has been unjustifiably dismissed. (6 marks)

**(10 marks)**
  
- 3 Explain the following remedies for a breach of contract:**
  - (a) injunction; and (4 marks)
  - (b) damages. (6 marks)

**(10 marks)**
  
- 4 In relation to company law:**
  - (a) discuss the operation of the *ultra vires* doctrine at common law, highlighting its rationale; and (4 marks)
  - (b) explain how the Companies Act 1965 has diminished the importance of the *ultra vires* doctrine in Malaysia. (6 marks)

**(10 marks)**
  
- 5 Explain FIVE main duties imposed on a company auditor, under the Companies Act 1965, in relation to reports on accounts.**

**(10 marks)**
  
- 6 In relation to the law of agency:**
  - (a) explain THREE duties of an agent to a principal under the Contracts Act 1950; and (6 marks)
  - (b) explain TWO duties of a principal to an agent under the Contracts Act 1950. (4 marks)

**(10 marks)**

**7 In the context of company law:**

- (a) explain FIVE rights that may be attached to preference shares; and (5 marks)
- (b) explain the procedure for a variation of class rights under Table A of the Fourth Schedule to the Companies Act 1965, as well as the protection afforded to class shareholders who are dissatisfied with the variation. (5 marks)

**(10 marks)**

**8 Mainco Bhd wishes to appoint Alan, Bakri and Chandru as directors of its wholly-owned subsidiary, Subco Sdn Bhd.**

- (a) Alan, aged 75 years, has vast experience as the chief executive officer of various companies. (3 marks)
- (b) Bakri was convicted of theft five years ago and sentenced to imprisonment for five years. He has just been released from prison. He has previous experience managing large companies. He has also assured Mainco Bhd that he is a reformed character and that he would prove to be an asset to Subco Sdn Bhd. (4 marks)
- (c) Chandru, an Indian national aged 45 years, is a well-known software engineer. (3 marks)

**Required:**

**Advise Mainco Bhd whether there would be any legal obstacles under the Companies Act 1965 to the proposed appointment of Alan, Bakri and Chandru as directors of Subco Sdn Bhd, and how such obstacles may be overcome.**

Note: The split of the mark allocation is shown against each part of the question.

**(10 marks)**

- 9 (a)** In recent years, Uphill Bhd has enjoyed exceptional prosperity as a housing developer. It now has capital which is in excess of its needs. Last week, the board of directors of the company resolved to return the excess capital to its members on a *pro-rata* basis. The board wishes to implement the resolution next week.

EZ bank, a creditor of Uphill Bhd, is unhappy with the board's resolution and has written to the company objecting to its proposal to reduce its capital by returning the excess capital, stating that the company had not followed the procedure which is required under the Companies Act 1965.

**Required:**

**Advise the board whether EZ Bank's objection to the reduction of capital is valid.** (5 marks)

- (b) Cetak Bhd is a prosperous printing company. Kira, a senior clerk employed by the company, has asked for a loan of RM10,000 for the purpose of purchasing shares in Cetak Bhd. She has informed the company that she would like the shares to be registered in her son's name as she intends to give the shares as a wedding gift to him. Cetak Bhd seeks your advice on whether it would contravene the Companies Act 1965 if it grants the loan requested by Kira for the purpose indicated by her.

**Required:**

**Advise Cetak Bhd.** (5 marks)

**(10 marks)**

- 10 (a)** Last week, Chong agreed to sell his old violin to Danny for the price of RM2,000. Danny paid Chong a deposit of RM100. The violin was to be delivered to Danny when he paid the balance of the purchase price to Chong. Yesterday, when Danny approached Chong with the balance of the purchase price and to take delivery of the violin, Chong told Danny that he had just discovered that the real market value of the violin was RM20,000 and that the agreement to sell the violin for RM2,000 was not valid as the consideration was inadequate.

**Required:**

**Advise Danny as to his legal position.**

(5 marks)

- (b)** Two years ago, Thatha, out of love and affection, agreed to give his vintage car to his grandson, Appoo, upon his graduation as an accountant. To prove that Thatha was serious about this, a written agreement was drawn up between them.

Appoo graduated six months ago but Thatha refuses to honour the agreement on the ground that it is not valid due to lack of consideration.

**Required:**

**Advise Appoo as to his legal position.**

(5 marks)

**(10 marks)**

**End of Question Paper**