

Fundamentals Level – Skills Module

Corporate and Business Law (Singapore)

Monday 8 December 2014



Time allowed: 2 hours

This paper is divided into two sections:

Section A – ALL 45 questions are compulsory and MUST be attempted

Section B – ALL FIVE questions are compulsory and MUST be attempted

Do NOT open this paper until instructed by the supervisor.

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 (SGP)

The ACCA logo consists of the letters 'ACCA' in a bold, white, sans-serif font, centered within a solid black rectangular background.

Section A – ALL 45 questions are compulsory and MUST be attempted

Please use the space provided on the inside cover of the Candidate Answer Booklet to indicate your chosen answer to each multiple choice question.

1 Which of the following statements about a company limited by guarantee is correct?

- A It can be a public or private company
- B It is a private company
- C It is a public company

(1 mark)

2 Which of the following statements in relation to a contract is correct?

- A It must contain all the terms in one document
- B It does not need to be in writing
- C It must always be signed and dated

(1 mark)

3 Flo and Gayle entered into a contract in which Flo was to sell her handbag to Gayle for \$500. Flo made an untrue statement about the handbag just before the contract was signed. Gayle has been advised that she can sue Flo for breach of contract.

What is the nature of Flo's untrue statement?

- A A puff
- B A representation
- C A term

(1 mark)

4 A statute states that 'cars, motorcycles and motor-powered vehicles' are prohibited from entering a place.

Which of the following rules of statutory interpretation should be applied to interpret 'motor-powered vehicles'?

- A Noscitur a sociis
- B Expressio unius est exclusio alterius
- C Plain meaning
- D Eiusdem generis

(2 marks)

5 Which of the following courts hears ONLY civil cases?

- A District Court
- B Coroner's Court
- C Small Claims Tribunal

(1 mark)

6 Which of the following is an exception to the general rule that there must be full and precise performance of the contract?

- A** There was partial performance of the contract
- B** The deviation in performance was very small
- C** There is only one single indivisible obligation to be performed

(1 mark)

7 Mary did not put on her seat belt as required by law. She was injured when the car she was driving collided with a car driven by Tony. Mary sues Tony for negligence.

Which of the following defences to negligence may be used by Tony?

- A** Disclaimer
- B** Volenti non fit injuria
- C** Contributory negligence

(1 mark)

8 A dress, with a price tag of \$100, is put on display in a shop.

In displaying the dress, what is the shop doing?

- A** Making a unilateral offer
- B** Asking for acceptance
- C** Making an invitation to treat
- D** Making a bilateral offer

(2 marks)

9 A flat worth \$400,000 is sold for \$4,000.

Which TWO of the following statements in relation to the consideration of \$4,000 are correct?

- (1) It is insufficient
- (2) It is adequate
- (3) It is sufficient
- (4) It is inadequate

- A** (1) and (2)
- B** (2) and (3)
- C** (3) and (4)
- D** (1) and (4)

(2 marks)

10 Alan and Bob entered into a contract.

Which of the following statements about privity of contract in relation to this contract is correct?

- A Only Alan and Bob can enforce the terms of the contract
- B Another person may enforce the contract Alan and Bob entered into if the person fulfils certain statutory conditions
- C Only Alan and Bob have rights under the contract

(1 mark)

11 Richard employed Steve, an interior designer, to renovate his house. Two days before Steve was due to visit the house to draw up the design plans, Richard telephoned Steve to inform him that he no longer required his services.

Which of the following options are available to Steve?

- (1) He may terminate further performance of the contract immediately
 - (2) He may continue with the performance of his obligations under the contract
 - (3) He may sue for damages
- A (1) and (3)
 - B (2) only
 - C (2) and (3)
 - D (3) only

(2 marks)

12 Which of the following forms part of the 'written law' of Singapore?

- A Custom
- B Case law
- C Tradition
- D Delegated legislation

(2 marks)

13 A lorry owned by Gain Pte Ltd broke down on the road. Just as Joe passed the lorry, he was hit by a car driven by Tom who had recklessly made an illegal U-turn. Joe wishes to sue Gain Pte Ltd and Tom.

Based on the facts above, which of the following statements is correct?

- A Tom's act constitutes a novus actus interveniens
- B Gain Pte Ltd and Tom could raise the defence of volenti non fit injuria
- C Gain Pte Ltd is not liable because it did not cause the accident
- D Tom could raise the defence of contributory negligence on the part of Joe

(2 marks)

- 14 Generous Bank offered Molly a loan facility. The offer came with a free luxury brand X handbag worth \$500. Molly applied for the loan facility. However, Generous Bank said they could only give Molly a luxury brand Y handbag worth \$500.

Which of the following statements about Molly's position is correct?

- A She cannot sue Generous Bank because the handbag comes free of charge
- B She can sue Generous Bank because she has provided consideration
- C She can sue Generous Bank because there is an offer
- D She cannot sue Generous Bank because there is no intention to create legal relations

(2 marks)

- 15 **Which of the following statements about a floating charge is NOT correct?**

- A It is a charge on a class of assets, present and future
- B It can change into a fixed charge upon the happening of certain events
- C Until some step is taken by the creditor, the debtor company may carry on its business in the usual way in relation to the class of assets which is subject to a floating charge
- D Where a floating charge is created over a class of assets and prior to crystallisation, consent of the creditor has to be obtained before the debtor disposes of this class of assets

(2 marks)

- 16 **Which of the following statements about a limited liability partnership ('LLP') is correct?**

- A A change of partners affects the rights and liabilities of an LLP
- B An LLP does not need to submit an annual declaration of solvency or insolvency to the Accounting and Corporate Regulatory Authority
- C An LLP needs to keep accounting records, profit and loss accounts and balance sheets

(1 mark)

- 17 **Which of the following is NOT a court within the hierarchy of the Subordinate Courts?**

- A Bankruptcy Court
- B District Court
- C Magistrates' Court
- D Family Court

(2 marks)

- 18 Billy offered to sell his golf clubs to Jimmy. Jimmy immediately replied by letter accepting the offer, but his letter never reached Billy.

Which of the following statements about Billy's position is correct, and for what reason?

- A He is bound by the contract because Jimmy has accepted his offer
- B He is bound by the contract because the postal rule applies
- C He is not bound by the contract because the letter was lost in the post
- D He is bound by the contract if it was reasonable for Jimmy to have used the post

(2 marks)

19 Which TWO of the following criteria have to be met before an individual can be appointed a director of a company?

- (1) They must be a natural person and not a company
- (2) They must own shares in the company of which they are a director
- (3) They must be at least 18 years old
- (4) They must be at least 21 years old

- A** (1) and (2)
- B** (1) and (3)
- C** (1) and (4)
- D** (2) and (4)

(2 marks)

20 Alpha Pte Ltd is related to Beta Pte Ltd.

Which of the following statements about Alpha Pte Ltd and Beta Pte Ltd is correct?

- A** They must have the same directors
- B** They must have the same shareholders
- C** They are owned by the same company

(1 mark)

21 Which of the following statements about misrepresentation are correct?

- (1) It is an unambiguous statement of opinion
- (2) It is an unambiguous false statement of fact
- (3) It is an unambiguous statement of intention
- (4) It is an unambiguous false statement of law

- A** (2) only
- B** (3) only
- C** (2) and (3)
- D** (2) and (4)

(2 marks)

22 Which of the following statements about a company promoter is correct?

- A** They owe fiduciary duties to the company
- B** They owe fiduciary duties directly to the shareholders of the company
- C** They owe fiduciary duties directly to members of the public who invest in the company
- D** They do not owe fiduciary duties to the company

(2 marks)

23 In relation to the law on contractual terms, which of the following statements about a condition is correct?

- A** It is a subsidiary term of the contract
- B** It refers to an event upon which the existence of the contract hinges
- C** It goes to the root of the contract
- D** It is a term of a contract under which one party promises to do a particular thing

(2 marks)

24 Which of the following may NOT apply to the court to commence a derivative action on behalf of a company?

- A** A member of the company
- B** A creditor of the company
- C** The Minister of Finance, in the case of a declared company
- D** A person who in the discretion of the court is a proper person

(2 marks)

25 Which of the following statements about treasury shares is correct?

- A** Owners have voting rights
- B** Owners have rights to dividends
- C** Owners have NO right to attend company meetings

(1 mark)

26 Peter ordered a huge quantity of spare parts on behalf of Vroom Pte Ltd when Vroom Pte Ltd was in financial difficulties. The supplier of the spare parts was not paid. Peter has been charged with insolvent trading under the Companies Act Cap 50.

Which of the following statements about the insolvent trading provision in relation to Peter is correct?

- A** He need not be an officer of Vroom Pte Ltd
- B** He will not contravene the provision if he believes Vroom Pte Ltd will be able to pay the supplier
- C** He will contravene the provision if he has no reasonable expectation that Vroom Pte Ltd will be able to pay the supplier
- D** He may have to pay a fine but will not be personally liable to pay the supplier

(2 marks)

27 Which of the following is a register a private company has to keep?

- A** Register of substantial shareholders
- B** Register of creditors
- C** Register of charges

(1 mark)

28 Which of the following statements about a company's power to borrow is correct?

- A** It is conferred by the Companies Act Cap 50
- B** It must be stated in its objects clause
- C** It must be exercised by the members

(1 mark)

29 Which TWO of the following statements about the chairman of a general meeting are correct?

- (1) They have an automatic casting vote
 - (2) Their job is to ensure that the meeting is properly run
 - (3) The chairman of the board of directors must fill this role
 - (4) If there are no provisions in the articles of association, they may be elected by members present at a general meeting
- A** (1) and (2)
 - B** (2) and (3)
 - C** (2) and (4)
 - D** (1) and (4)

(2 marks)

30 Which of the following statements in relation to the Application of English Law Act is correct?

- A** It states that the whole common law of England is part of the law of Singapore
- B** It states that part of the common law of England is part of the law of Singapore
- C** It states that the Singapore courts must follow decisions of the Privy Council

(1 mark)

31 Which of the following transactions does NOT require the directors of a company to make a solvency statement in advance?

- A** Redemption of preference shares out of capital
- B** Provision of financial assistance to a person to acquire its own shares
- C** Reduction of capital without getting court sanction
- D** Reduction of capital with court sanction

(2 marks)

32 Which of the following statements about an annual general meeting is correct?

- A** No more than 15 months may elapse between a company holding an annual general meeting
- B** A company must hold an annual general meeting in the year of its incorporation
- C** A company must hold an annual general meeting in the year following its incorporation

(1 mark)

- 33 After Alpha Pte Ltd placed a sell order, Beta Pte Ltd would place a buy order for approximately the same number of shares at the same price.

Alpha Pte Ltd and Beta Pte Ltd know of each other's proposed transactions.

Which of the following describes the offences which may have been committed by Alpha Pte Ltd and Beta Pte Ltd?

- A Fraudulent trading
- B Fraudulently inducing persons to deal in securities
- C Creating a false appearance of active trading of securities

(1 mark)

- 34 Lee, a potential supplier of equipment to a government agency, offered \$50,000 to Tan, a manager at the government agency, in return for information on the prices offered by other suppliers. Tan declined Lee's offer.

Which of the following statements about Lee's potential contravention of the Prevention of Corruption Act Cap 241 is correct, and for what reason?

- A He will be convicted because he offered a corrupt gratification to Tan
- B He will be convicted because Tan was the person in charge of procurement at the government agency
- C He will not be convicted because Tan turned down his offer
- D He will not be convicted because he is not an employee of the government agency

(2 marks)

- 35 Midas Pte Ltd is in financial difficulty. Pursuant to the Companies Act Cap 50, Midas Pte Ltd wants to enter into a scheme of arrangement with its creditors to vary the creditors' rights. It is required to get the approval of several classes of creditors.

What is the stipulated majority required of each class of creditors?

- A A majority in number representing three-fourths in value of the creditors
- B A majority in number representing more than half in value of the creditors
- C Three-fourths in number representing more than half in value of the creditors
- D Three-fourths in number representing three-fourths in value of the creditors

(2 marks)

- 36 In relation to the Singapore common law tradition, which of the following statements on *stare decisis* is correct?

- A The Court of Appeal is bound by its own prior decisions
- B The lower court has to apply the obiter dictum of the higher court within the same hierarchy
- C The lower court has to apply the ratio decidendi of the higher court within the same hierarchy

(1 mark)

- 37 Who can appoint a company secretary?

- A The directors
- B The shareholders
- C Both the directors and shareholders

(1 mark)

38 Which TWO of the following statements are correct in relation to a limited liability partnership (LLP)?

- (1) An LLP is capable of suing and being sued
- (2) A partner of an LLP may be held personally liable for claims from losses resulting from their own wrongful act or omission
- (3) A partner of an LLP may be held personally liable for wrongful acts or omissions of other partners of the LLP
- (4) The partners of an LLP will be held personally liable for any business debts incurred by the LLP

- A** (1) and (4)
- B** (2) and (3)
- C** (1) and (2)
- D** (1) and (3)

(2 marks)

39 Winners Pte Ltd has issued some preference shares.

Article 50 of Winners Pte Ltd's articles of association states that these preference shares are entitled to a 5% cumulative dividend.

Article 51 of the articles of association states that the rights attached to any class of shares may be varied with a special resolution passed at a meeting of shareholders of that class.

Winners Pte Ltd wishes to reduce the dividend payable on its preference shares to 4%.

Which resolutions must be passed in order to amend article 50 of Winners Pte Ltd's articles of association?

- (1) An ordinary resolution passed at the general meeting
- (2) A special resolution passed at the general meeting
- (3) A special resolution passed by preference shareholders

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

(2 marks)

40 Which of the following about commencement of winding up by the court is correct?

- A** It commences at the time of the making of the application to court
- B** It commences at the time the court makes the winding up order
- C** It commences when the board of directors passes a resolution to wind up the company
- D** It commences when the shareholders pass a resolution to wind up the company

(2 marks)

41 Which of the following rules of statutory interpretation allows a judge to depart from the ordinary meaning of a word in order to avoid an absurd result?

- A** The ejusdem generis rule
- B** The golden rule
- C** The mischief rule

(1 mark)

42 Beng was cleaning the office of the chief executive officer of Clear Ltd. He found a sheet of paper in the bin which contained information about Clear Ltd. He then bought some shares in Clear Ltd and made a profit when he sold them.

Which of the following statements in relation to Beng's liability for insider trading is correct, and for what reason?

- A** He will be liable because he is a 'connected person' of Clear Ltd
- B** He will be liable if he had made use of price-sensitive information about Clear Ltd which has not been made public
- C** He will not be liable because he is not a 'connected person' of Clear Ltd
- D** He will not be liable because he did not communicate the information to anyone

(2 marks)

43 Which of the following is a remedy for misrepresentation?

- A** Injunction
- B** Claim for secret profit
- C** Rescission

(1 mark)

44 Which of the following may amount to price-sensitive information in relation to insider trading of a particular company's shares?

- A** Knowledge of a proposed reduction in the company's dividend
- B** Knowledge that interest rates in Singapore will rise next year
- C** Knowledge that a middle management executive of the company is about to resign

(1 mark)

45 Calvin sold a bicycle to Darren for \$2,000. Just before the contract was concluded, Calvin said to Darren 'you will never regret buying this bicycle from me.'

The bicycle turned out to have severe defects.

Which of the following statements in relation to Calvin's statement is correct, and for what reason?

- A** It has no legal effect because it was made before the contract was concluded
- B** It has no legal effect because it is a puff
- C** It has a legal effect because it is a term of the contract
- D** It has a legal effect because Calvin knows more about the bicycle than Darren

(2 marks)

Section B – ALL FIVE questions are compulsory and MUST be attempted

Please write your answers to all parts of these questions on the lined pages within the Candidate Answer Booklet.

- 1 John, who lives in Jurong, wishes to have his furniture transported to his new flat in Bedok. He contracted with Peter to move his furniture. Peter offers a price which is substantially lower than other removal firms because he offers no insurance cover for the goods while they are in transit. In order to give effect to his pricing policy, Peter wants to include the following clause in the contract:

‘No liability is accepted for any injury to persons or damage caused to goods during the course of transit.’

Required:

- (a) Describe TWO ways for Peter to incorporate this clause into his contracts. (2 marks)

(b) Explain whether the clause covers the following:

- (i) injury to John, who was in the van because he wanted to accompany his furniture, when Peter’s van was involved in an accident. (2 marks)

- (ii) total destruction of John’s furniture when Peter’s van was destroyed by fire. (2 marks)

(6 marks)

- 2 Roy, Sally and Tammy incorporated Blooms Pte Ltd (‘Blooms’), with Roy and Sally as the directors and shareholders, with each of them holding 10,000 shares. Blooms leases the land from which it operates from Rich Pte Ltd. Blooms’ articles of association contain the following:

Article 1: A member who wishes to transfer their shares must inform the directors, who are to take the shares equally between them at a fair value.

Article 2: Rich Pte Ltd may appoint one director to the board of directors of Blooms.

Article 3: Any dispute between Blooms and its members should be referred to arbitration rather than have the case go to court.

Tammy wishes to exit Blooms.

Required:

- (a) Explain whether Tammy may enforce article 1 and if so, against whom. (2 marks)

(b) Blooms Pte Ltd refuses to let Rich Pte Ltd appoint a director.

Required:

- Explain whether Rich Pte Ltd may enforce article 2 and if so, against whom. (2 marks)

(c) Tammy wishes to sue Blooms Pte Ltd in court.

Required:

- Explain whether Blooms Pte Ltd may enforce article 3 and if so, against whom. (2 marks)

(6 marks)

3 Fresh Groceries Pte Ltd ('Fresh') owns a large chain of supermarkets.

Fresh invested heavily in the setting-up of an internet sports drinks distribution business on the recommendation of its director and chief executive officer, John. John has 20 years' experience in the supermarket business. He has heard from some friends that sports drinks and e-commerce are very popular with Singaporeans.

John also made a decision to change Fresh's frozen seafood supplier to a new company, Fame Seafood Pte Ltd. It is owned by John's two brothers, but John did not tell anyone about this relationship.

Required:

(a) Explain the statutory duty which John may have breached in relation to Fresh Pte Ltd's decision to invest in the internet sports drinks distribution business. (3 marks)

(b) Explain the statutory duty which John may have breached in relation to Fresh Pte Ltd's decision to change its frozen seafood supplier. (3 marks)

(6 marks)

4 Elly and Fred incorporated Bright Sparks Pte Ltd ('Bright'), with Elly as a director and chief executive officer and Fred as a non-executive director. Elly owned 51% of the shares in Bright while Fred owned 49%. Elly misappropriated some of Bright's funds. When Fred asked about the accounting irregularities, Elly refused to answer any of his questions and removed him as director.

Required:

(a) State TWO requirements which have to be fulfilled before the court will permit Fred to commence a derivative action on behalf of Bright Sparks Pte Ltd. (2 marks)

(b) Explain whether Fred should commence a derivative action on behalf of Bright Sparks Pte Ltd or commence a personal action:

(i) in relation to Elly's misappropriation of Bright Sparks Pte Ltd's funds. (2 marks)

(ii) in relation to Elly's conduct of not answering his questions and removing him as director. (2 marks)

(6 marks)

5 Tembusu Pte Ltd is in financial difficulties because one of its major customers, Oak Pte Ltd, has gone into liquidation. The board of directors of Tembusu Pte Ltd believes that the company's troubles are temporary, and that they need time to find new customers and collect their debts from the liquidator of Oak Pte Ltd. Tembusu Pte Ltd wishes to obtain a judicial management order to stop its creditors from demanding payment of their debts, so that the company can focus on getting its business back on track.

Required:

(a) State THREE purposes which the court must be satisfied are likely to be achieved before it will make a judicial management order. (3 marks)

(b) Explain why the judicial management order is effective in temporarily stopping Tembusu Pte Ltd's creditors from demanding payment. (3 marks)

(6 marks)

End of Question Paper