

Fundamentals Level – Skills Module

Corporate and Business Law (Malta)

Tuesday 7 June 2011

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

The Malta Institute of Accountants

ACCA



Paper F4 (MLA)

ALL TEN questions are compulsory and MUST be attempted

- 1 Under the Maltese legal system, explain primary and secondary/delegated legislation as the two main sources of law.**

(10 marks)

- 2 In terms of Maltese contract law, explain:**

 - (a) subject-matter as an essential internal requisite for a valid contract;** (5 marks)
 - (b) the consequences resulting from a breach of contract.** (5 marks)

(10 marks)

- 3 In terms of the Employment and Industrial Relations Act, 2002 describe the information which must be given to an employee by an employer in the absence of a contract of employment.**

(10 marks)

- 4 In terms of the Companies Act, 1995 a company is said to have a separate legal personality. Explain the circumstances in which the corporate veil may be lifted.**

(10 marks)

- 5 In terms of the provisions of the Companies Act, 1995 explain:**

 - (a) the essential features of a partnership deed; and** (6 marks)
 - (b) how changes may be made to a partnership deed.** (4 marks)

(10 marks)

- 6 In terms of the provisions of the Companies Act, 1995 explain the procedure to be followed where the consideration for an increase in the issued share capital of a company is for a non-cash consideration.**

(10 marks)

- 7 In terms of the Companies Act, 1995, explain and distinguish between ordinary resolutions and extra-ordinary resolutions, which may be taken by the shareholders of a limited liability company.**

(10 marks)

- 8 Sparks Limited sold car parts. This year it encountered financial difficulties due to an increase in the purchase of new cars as against second-hand cars and recently has failed to pay suppliers. The suppliers proceeded to file an application before the courts requesting that Sparks Limited be dissolved and wound up on the basis of the fact that it was unable to pay its debts. The court upheld the application and ordered that Sparks Limited be dissolved and wound up. It also appointed a liquidator. During the liquidation process the liquidator realised that Sparks Limited had been in a precarious financial situation for a long time and prior to the orders being placed with the suppliers. However, the directors of Sparks Limited never gave an indication that the company was in an insolvent state.

Required:

- (a) Advise the liquidator the action that may be taken against the directors of Sparks Limited.

(3 marks)

- (b) Explain the extent of the liability of the directors of Sparks Limited under the provisions of the Companies Act, 1995, relating to 'Offences antecedent to dissolution or in course of winding up'.

(7 marks)

(10 marks)

- 9 Mike is a director of ABC Limited, but he also has his own business and is a wholesale supplier of precious metals under the name of PM Limited. Six months ago a contract was entered into between ABC Limited and PM Limited for the purchase of goods amounting to €1 million from PM Limited. Mike was present at the board meeting that approved the contract and voted in favour of it, without revealing any link with PM Limited.

Required:

Analyse the facts, explaining any potential liability that Mike may have in relation to the sale of the precious metals to ABC Limited by PM Limited.

(10 marks)

- 10 Mark is a bank manager who collects valuable paintings but is currently facing financial problems. Andrew is a bank clerk, who has stolen various paintings and wishes to sell these paintings. Being aware of Mark's financial situation, Andrew approaches Mark and asks him to help him sell the paintings and deposit the proceeds in a bank account. In return Mark will receive half the proceeds from the sale. Though reluctant, Mark puts Andrew in contact with a buyer and later opens a bank account in the name of a fictitious person at the branch he manages, and deposits therein Andrew's share of the proceeds of the sale of the stolen paintings.

Required:

- (a) On the basis of the facts, analyse whether Mark may be held liable for committing the offence of money laundering in terms of the Prevention of Money Laundering Act, 1994.

(5 marks)

- (b) Explain the principal obligations of a Subject Person in terms of the Prevention of Money Laundering and Funding of Terrorism Regulations, 2008.

(5 marks)

(10 marks)

End of Question Paper