

Fundamentals Level – Skills Module

Corporate and Business Law (Malaysia)

Monday 12 December 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

Paper F4 (MYS)

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

ALL TEN questions are compulsory and MUST be attempted

- 1 In relation to the Malaysian legal system:**
- (a) define 'human rights'; (2 marks)
 - (b) state TWO functions of the Human Rights Commission under the Human Rights Commission of Malaysia Act 1999; and (2 marks)
 - (c) explain THREE provisions relating to human rights as found in the Federal Constitution. (6 marks)
- (10 marks)**
- 2 In relation to contract law explain and distinguish between:**
- (a) a proposal (offer) and an invitation to treat; and (5 marks)
 - (b) an acceptance and a counter-proposal (counter-offer). (5 marks)
- (10 marks)**
- 3 In relation to employment law:**
- (a) explain and distinguish between a contract of service and a contract for services; and (4 marks)
 - (b) discuss the tests applied by the courts to determine the existence of a contract of service. (6 marks)
- (10 marks)**
- 4 In relation to insolvency and the Companies Act 1965:**
- (a) list any FOUR persons who may petition for the winding up of a company by the court. (4 marks)
 - (b) explain when a company may be deemed unable to pay its debts. (6 marks)
- (10 marks)**
- 5 In relation to company law:**
- (a) explain what is meant by the 'veil of incorporation'; and (2 marks)
 - (b) discuss any FOUR situations in which the veil of incorporation may be disregarded. (8 marks)
- (10 marks)**
- 6 In relation to the law of partnership, discuss the liability of a retired partner for the debts of the partnership incurred both before, and after, his retirement.**
- (10 marks)**

- 7 The Malaysian Code on Corporate Governance recommends certain matters with respect to best practices in corporate governance. One of them is the establishment of an audit committee. In this context:
- (a) **state how the audit committee should be composed, as recommended under the Code; and** (4 marks)
 - (b) **explain any FOUR duties of the audit committee, as recommended under the Code.** (6 marks)
- (10 marks)**

- 8 (a) FGH Sdn Bhd is a prosperous manufacturing company. It is keen to purchase a piece of land in Ipoh for its new factory. Sapu, one of its directors, owns a piece of land in Ipoh, which is ideally suited for the company's new factory. Sapu has offered to sell the land to FGH Sdn Bhd at its market price of RM2.5 million. The board of directors of FGH Sdn Bhd wishes to purchase the land but Jaga, its company secretary, has warned the board that the purchase of Sapu's land would contravene the Companies Act 1965. The board seeks your advice regarding this matter.

Required:

Advise the board of FGH Sdn Bhd whether the proposed purchase of Sapu's land would contravene the Companies Act 1965. (5 marks)

- (b) Jane is an executive director of KLM Bhd, a prosperous printing company. Last week, Jane was diagnosed with a serious disease which needs surgery and a long stay in hospital. She has applied to KLM Bhd for a loan of RM100,000 from the company for her medical expenses. KLM Bhd informs you that it would like to help Jane but is unsure as to the legal position.

Required:

Advise KLM Bhd whether it is permitted under the Companies Act 1965 to make such a loan to Jane. (5 marks)

(10 marks)

9 A general meeting of ABC Bhd, whose sole object was the manufacture of plywood, was held last week. Three special resolutions were passed at the meeting.

- (a) The first resolution was to alter the objects clause in the memorandum of ABC Bhd to add an additional object, namely, the manufacture of steel cabinets. Dol and his wife, Sah, are members of ABC Bhd and together they hold 9% of the company's issued share capital. They are extremely unhappy about the resolution and seek your advice as to whether they may apply to the court to cancel the alteration.

Required:

Advise Dol and Sah.

(4 marks)

- (b) The second resolution was to alter the company's articles to empower the directors to compulsorily purchase the shares of any member who runs a business which is in competition with the business of the company. Mat, a member of ABC Bhd, runs a business which competes with the business of the company. He seeks your advice on the validity of the said resolution.

Required:

Advise Mat.

(3 marks)

- (c) The third resolution was to alter the name of the company from ABC Bhd to ZZZ Bhd. Manis, a member of ABC Bhd, has informed the company that she intends to take legal action to challenge the validity of the resolution. She has pointed out that the memorandum of the company contains a clause that the name of the company is unalterable.

Required:

Advise Manis whether she is likely to be successful if she challenges the validity of the resolution.

(3 marks)

(10 marks)

10 Umar entered into the following two separate contracts with Ramu:

- (i) a contract to purchase Ramu's two-acre plot of land at Cameron Highlands for RM3 million, which reflects its fair market price; and
- (ii) a contract to sell to Ramu, his (Umar's) motorcar, a Toyota Corolla, for RM50,000. The market price of the car is RM55,000.

Subsequently Ramu, without giving any reason, informed Umar that he did not want to sell the land to Umar. Umar then told Ramu, 'In that case I refuse to sell you my car. I will also sue you for breach of contract.' Ramu replied that he too would sue Umar for breach of contract if Umar did not sell the motorcar to him as agreed.

Required:

Advise Umar regarding,

- (a) **the most appropriate remedy for him against Ramu for breach of contract in relation to Ramu's land; and**
(5 marks)
- (b) **the most likely remedy which the court may order against him (Umar) in favour of Ramu for breach of contract in relation to the sale of the motorcar.**
(5 marks)

(10 marks)

End of Question Paper