

Fundamentals Level – Skills Module

Corporate and Business Law (Scots)

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

Paper F4 (SCT)

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 Scottish legal system:**
- (a) Explain and distinguish between civil and criminal law, providing a statutory example of each category; (7 marks)
 - (b) Identify the courts, *below the level of the Inner House of the Court of Session and High Court of Justiciary* sitting as a court of criminal appeal, that deal with civil law and criminal law. (3 marks)
- (10 marks)**
- 2 In relation to the formation of a contract explain:**
- (a) the meaning of an offer; (5 marks)
 - (b) the circumstances under which an offer may be terminated. (5 marks)
- (10 marks)**
- 3 In relation to liability under the delict of negligence explain:**
- (a) the standard of care owed by one person to another; (6 marks)
 - (b) the defence of contributory negligence. (4 marks)
- (10 marks)**
- 4 In relation to the formation of a company explain:**
- (a) the role and duties of promoters, and how they are regulated; (5 marks)
 - (b) a pre-incorporation contract, and its legal consequences. (5 marks)
- (10 marks)**
- 5 With regard to payment for shares in the context of capital maintenance, explain the meaning and legal effect of the following:**
- (a) issuing shares at a premium; (5 marks)
 - (b) issuing shares at a discount. (5 marks)
- (10 marks)**
- 6 In relation to company regulation explain:**
- (a) the concept of 'corporate governance'; (3 marks)
 - (b) the role of the UK Corporate Governance Code; (3 marks)
 - (c) the role of non-executive directors within the context of the UK Corporate Governance Code. (4 marks)
- (10 marks)**

7 In relation to employment law distinguish between and explain the meaning of:

(a) unfair dismissal; (5 marks)

(b) constructive dismissal; (3 marks)

(c) wrongful dismissal. (2 marks)

(10 marks)

8 Ari operates a business as a designer of internet web pages for a variety of business clients. Unfortunately he has had some difficulty in recovering his full fees from a number of clients as follows:

(a) Bi, a newly qualified accountant, told Ari that although she could only raise the cash to pay half of the outstanding fees she would, as an alternative to paying the other half, do all of Ari's accountancy work for the coming year. Ari reluctantly agreed to this proposal.

(b) Cas, a self-employed musician, told Ari that she could not pay any of the money she owed him. However, her father offered to pay Ari, but could only manage half of the total amount owed. Once again Ari reluctantly agreed to accept the father's payment of the reduced sum.

(c) Dex, a self-employed car mechanic, without contacting Ari, simply sent him a cheque for half of his fees stating that he, Dex, could not pay any more and that the cheque was in full settlement of his outstanding debt.

Ari himself is now in financial difficulty and needs additional cash to maintain his business operation.

Required:

Advise Ari whether, in the context of contract law, he can recover any of the outstanding money from Bi, Cas and Dex.

(10 marks)

9 Goal Ltd is a property development company. Before its incorporation 12 months ago, its business was carried out by Hope, as a sole trader. On the formation of Goal Ltd, Hope expanded the business by asking three of his business contacts to supply additional capital in return for which they, together with Hope, became its directors. Although never formally appointed, Hope took the role and title of chief executive and the other directors left the day-to-day running of the business to him and were happy simply to receive feedback from him at board meetings.

Six months ago Hope entered into a contract on Goal Ltd's behalf with Ima to produce plans for the redevelopment of a particular site that it hoped to acquire. However, Goal Ltd did not acquire the site and due to its current precarious financial position and their fear of potential losses, the board of directors has refused to pay Ima, claiming that Hope did not have the necessary authority to enter into the contract with her.

Required:

Analyse the situation with regard to the authority of Hope to make contracts on behalf of Goal Ltd, and, in particular, advise the board of directors of Goal Ltd if the company is liable on the contract with Ima.

(10 marks)

10 On the advice of his accountant, Mat registered a private limited company to conduct his small manufacturing business in January 2010. One of the reasons for establishing the company was to avoid liability for potential losses. The initial shareholders of the company were Mat, his wife Mary, and her father Norm, who each took 1,000 shares in the company, each with a nominal value of £1. The accountant explained that they did not have to pay the full nominal value of the shares at once, so they each paid only 25 pence per share taken, with the result that they still owed the company a further 75 pence per share to be paid at a later date.

When the company was established it became apparent that it needed to borrow money from a bank to finance an expansion in production. To that end Oop bank plc lent the company £20,000 secured by a fixed charge against the land Mat had previously transferred to the company, with an additional personal guarantee from Mat for any further debts owed by the company to the bank.

Unfortunately the business has not proved successful and Mat and the other shareholders have decided that it is better to liquidate the company rather than run up any more debts. The current situation is that the company's land is worth £20,000 and it has further assets to the value of £7,750, but it has debts to business creditors of £10,000 and owes the bank a further £10,000 on its bank overdraft.

Required:

Explain the rights of the various creditors and the potential liability of Mat, Mary and Norm. (The actual costs of winding up may be ignored.)

(10 marks)

End of Question Paper