



Examiners' report

F4 Corporate & Business Law (SGP)

June 2009

Question One

The majority of the candidates could explain the literal rule in the context of applying the dictionary meaning of the words used in the statute. Likewise, the majority of the candidates could explain the application of the golden rule. However, the weakness in most of the answers was due to the fact that many candidates could not explain the mischief rule clearly.

Question Two

Many of the candidates did not seem aware that the question required an explanation of the rule for remoteness of damages as discussed in *Hadley v Baxendale (1854)*, even though it was clearly stated in the question. Instead, many of the answers were completely off the point as they were limited to a discussion of a breach of the different terms in a contract, which is not required as part of the answer.

The candidates who did discuss the rule for remoteness of damage for breach of contract did not provide a clear explanation of the rule. They appeared confused about the two limbs and how they apply to the consequences of a breach of contract.

Question Three

A number of candidates went out of point in answering this question as they mistook this question for one on misrepresentation in contract law.

Of the candidates who discussed negligent misstatement in tort, some did not focus on duty of care but explained the elements of negligent misstatement instead. Of the candidates who fared relatively well in this question, many explained the special relationship in *Hedley Byrne v Heller (1964)*.

Question Four

The majority of the candidates went off point by discussing the liability of partners for debts of a partnership, which is not required in the question.

Of the candidates who discussed the authority of partners to bind the partnership, most were able to discuss actual authority but many did not mention either section 5 or section 8 Partnership Act (Cap 391).

Question Five

Candidates generally did relatively well in this question. The candidates managed to discuss clearly the salient features of the exempt private company and the public listed company.

Question Six

The majority of the candidates gave a sound explanation of the origins of the *ultra vires* doctrine. Many also stated that the Companies Act (Cap 50) has changed the common law rule on *ultra vires*. However, many were not very clear in explaining the changes.

Question Seven

The majority of the candidates focused on the duties of directors in their answers to this question. They generally gave a sound explanation of the fiduciary duties of a director. Unfortunately, many of the candidates did not address the role of directors, which is specifically required in the question.

Question Eight

The majority of the candidates generally did well for this question. They were able to analyse the issues of offer and acceptance arising from the facts given in the question. Some of the candidates discussed the application of the postal acceptance rule. Of those who discussed the postal acceptance rule, many did not mention that the rule applies only where the post, as a means of communication, was contemplated by the parties.

Question Nine

The majority of the candidates generally did well for this question. They were able to give a sound answer and identify correctly the funds available for distribution and the order of priority for distribution.

Question Ten

For this question, the majority of candidates discussed the directors' (Andy and Bob) fiduciary duties to act honestly and in the interests of the company. This part was generally well done. However, many candidates stopped there and did not discuss the issue of Charlie's right, as minority shareholder, to sue the company.

Some candidates were able to give a complete answer explaining the rule in *Foss v Harbottle* (1843) and the application of sections 216A and 216B Companies Act (Cap 50).