

Examiner's report

F4 Corporate and Business Law (ZAF)

June 2011

The ACCA logo is a black square with the white text "ACCA" inside.

General Comments

The examination consisted of ten compulsory questions each carrying 10 marks. Candidates are expected to be acquainted with the whole of the syllabus.

The unsatisfactory performance of many candidates was once again exacerbated by a clear failure to be careful in their reading of the content and requirements of questions. Although the examination technique appeared in some instances to be up to standard, it is obvious that insufficient time was allocated to the answering of some of the questions. It was also apparent that quite a few of the candidates were very ill-prepared for the exam and they tried to answer it on general knowledge.

This paper was sufficiently testing to reveal that some of the candidates had simply not done sufficient preparation for the exam. It was also clear that some of the candidates were not acquainted with the whole syllabus.

Specific Comments

Question One

This question required the candidates to discuss what the impact of human rights law on South African law is. The majority of the candidates did well in this question. Again a few candidates prepared certain set answers on human rights and they insisted in writing it down irrespective of what was asked. The only explanation can be that the majority of the candidates were not acquainted with the whole of the syllabus or that they did not read the exam paper properly.

Question Two

This question required candidates to distinguish agency from a contract for the benefit of a third party. A person who wishes to conclude a contract does not have to do so personally. Such person may prefer, whether for the sake of convenience or for other purposes, to authorise someone else to enter into the contract on his behalf or in his name. On the whole this was fairly well-answered, demonstrating that for candidates it is a matter of being well-prepared for the exam.

Question Three

This question required candidates to discuss the meaning and consequences of an acceptance. An acceptance is a clear and unambiguous declaration of intention by the offeree, unequivocally assenting to all the terms of the proposal embodied in the offer. Contract law is a very important part of the syllabus and candidates should pay particular attention to this branch of the law. Although there were some fair answers the majority of the candidates were not properly prepared to answer a question on this area of the law.

Question Four

This question deals with employment law and required candidates to discuss the dismissal of an employee for misconduct. The alleged misconduct of an employee is one of the most common grounds for justifying a dismissal. There was a range of answers to this question.

Question Five

This question dealt with the law of delict and candidates were required to explain the meaning of a delict. On the whole the question was satisfactorily answered. The law of dealing with delict and professional negligence is an important part of the syllabus. Candidates can expect questions on this area of the law.

Question Six

This question dealt with the ways in which the fiduciary duties of directors of a company. This is indeed a very basic issue in company law and quite a number of candidates failed to distinguish between the duties of care and fiduciary duties. Some of the answers were sound but the majority were unsatisfactory.

Question Seven

This question required candidates to explain and distinguish between shares and debentures. The issue of debentures is the method most generally used by a company for obtaining long-term loan funds, which merely entails that the amount to be borrowed is divided into smaller units. Debenture holders are creditors of a company whilst shareholders are members of the company. Quite a few candidates did very well in this question and it underlines the importance of the topic.

Question Eight

This question dealt with the law of contract. It turned on the issue of whether an exemption clause is valid. There is no reason why such clauses should not be valid. Most of the candidates were able to identify the problem area and quite a few managed to answer the question well.

Question Nine

This question required candidates to analyse the problem scenario and explain whether a valid partnership was formed between the parties. The answer is that a partnership was indeed formed. Some of the candidates managed to do fairly well in this question.

Question Ten

This question dealt with the basic principles of company law and was based on the decision in *Salomon v Salomon & Co Ltd* (1897). Candidates should be familiar with this decision since it is really one of the universally well known cases dealing with corporate personality. Some of the answers were sound and candidates were able to identify the problem. Most of the candidates performed satisfactorily.