

Fundamentals Level – Skills Module

Corporate and Business Law (Cyprus)

Monday 8 December 2014



Time allowed: 2 hours

This paper is divided into two sections:

Section A – ALL 45 questions are compulsory and MUST be attempted

Section B – ALL FIVE questions are compulsory and MUST be attempted

Do NOT open this paper until instructed by the supervisor.

You must NOT write in your answer booklet until instructed by the supervisor.

This question paper must not be removed from the examination hall.

Paper F4 (CYP)

The Association of Chartered Certified Accountants

The Institute of Certified Public Accountants of Cyprus

ACCA

ZEAK

Section A – ALL 45 questions are compulsory and MUST be attempted

Please use the space provided on the inside cover of the Candidate Answer Booklet to indicate your chosen answer to each multiple choice question.

1 David promised his wife to take her on holiday this summer.

Which element of a valid contract is present in this case?

- A Capacity
- B Intention to create legal relations
- C Consideration
- D Acceptance

(2 marks)

2 Which of the following is NOT a requirement for the formation of a valid contract?

- A Intention to create legal relations
- B Sufficient consideration
- C A signed document
- D Capacity to enter into a contract

(2 marks)

3 What is the correct order in terms of priority of payments during a company's winding up?

- (1) Taxes
- (2) Liquidation expenses
- (3) Unsecured creditors
- (4) Holders of ordinary shares

- A (1), (2), (3) then (4)
- B (2), (1), (3) then (4)
- C (1), (3), (4) then (2)
- D (2), (3), (1) then (4)

(2 marks)

4 In the context of the Cyprus legal system, which of the following is NOT within the jurisdiction of the Supreme Court?

- A Determining admiralty cases
- B Determining petitions concerning the application of the electoral laws
- C Determining petitions for divorce

(1 mark)

5 In the context of the law of contract, which of the following liabilities resulting from negligence may be excluded?

- A Liability for property loss
- B Liability for personal injury
- C Liability for death

(1 mark)

6 Which of the following conditions must, according to the Courts of Justice Law of 1960 as amended, be satisfied so that a common law principle will apply in Cyprus?

- (1) There is no statutory provision governing the matter
- (2) It is consistent with European Union law
- (3) It is consistent with the Constitution of Cyprus
- (4) It is consistent with previous decisions of the Supreme Court of Cyprus

- A** (1) and (2)
- B** (3) and (4)
- C** (1) and (3)
- D** (1) and (4)

(2 marks)

7 Which of the following constitutes grounds for the compulsory liquidation of a company?

- A** The directors are of the opinion that it is just and equitable that the company be wound up by the court
- B** An annual general meeting is not convened within 15 months from the previous annual general meeting
- C** The company suspends its business for six months
- D** The company resolves by special resolution that the company be wound up by the court

(2 marks)

8 Which of the following is NOT taken into consideration when distinguishing between contracts for services and contracts of service?

- A** The regularity of remuneration paid
- B** The level of remuneration paid
- C** Whether there is a fixed schedule

(1 mark)

9 In which of the following cases will the innocent party NOT be able to recover any damages for their loss caused by another's negligence?

- A** They suffered from a pre-existing condition which made their injury more serious
- B** They were partly at fault for the damage suffered
- C** They voluntarily exposed themselves to the state of affairs causing the damage

(1 mark)

10 Which of the following procedures is NOT required by the Prevention and Suppression of Money Laundering Activities Laws 2007 to be adopted by auditors?

- A** Meeting the clients in person
- B** Client identification procedures
- C** Procedures for internal reporting of suspected transactions
- D** Training employees in recognition of suspected transactions

(2 marks)

11 Which of the following statements relating to general partnerships are correct?

- (1) They must be registered with the Registrar of Companies
- (2) They are limited to a maximum of ten partners
- (3) They must have a minimum of two partners
- (4) They must have at least one limited partner

- A** (1) and (2)
- B** (1) and (3)
- C** (2) and (3)
- D** (2) and (4)

(2 marks)

12 Which of the following rights is NOT protected by the Cyprus Constitution?

- A** Prohibition of discrimination on the ground of sexual orientation
- B** Right to a fair trial
- C** Prohibition of discrimination on the ground of wealth

(1 mark)

13 Which of the following is NOT necessarily within an employer's duties towards their employees?

- A** Provision of medical insurance
- B** Payment of social insurance
- C** Indemnification against expenses incurred in the course of employment

(1 mark)

14 Which of the following is NOT a maxim of equity?

- A** Equity will not follow the law
- B** Equity will not suffer a wrong to be without a remedy
- C** They who come to equity must come with clean hands

(1 mark)

15 Which of the following may be classified as the tort of negligence?

- A** Failure to exercise reasonable care when there is no duty to do so
- B** Failure to exercise reasonable care when there is a duty to do so thereby causing loss to another
- C** Failure to exercise utmost care when there is a duty to do so thereby causing loss to another

(1 mark)

16 Which of the following circumstances would justify lifting the veil of incorporation?

- A** If the number of members of a public company is reduced to seven
- B** If the company owes more than €500 to a creditor
- C** If the directors are found liable for fraudulent trading
- D** If the company has provided negligent advice

(2 marks)

17 Mary has been continuously employed for three years.

Which of the following states the minimum period of notice her employer is entitled to?

- A** One week
- B** Two weeks
- C** Three weeks

(1 mark)

18 In relation to the availability of specific performance in the case of breach of contract, which of the following statements are true?

- (1) It is available only where damages would be an inadequate redress
- (2) It is available in contracts for personal service
- (3) It is only available if the contract is in writing

- A** (1) only
- B** (1) and (3)
- C** (2) and (3)
- D** (1), (2) and (3)

(2 marks)

19 In the context of the law of contract, which of the following statements in relation to the breach of a warranty is correct?

- A** This always gives rise to a right to terminate the contract
- B** This never gives rise to a right to terminate the contract
- C** This sometimes gives rise to a right to terminate the contract

(1 mark)

20 In the context of the law of contract, which of the following in relation to an innominate term is true?

- A** It is not binding on the parties
- B** It restricts the liability of the parties for breach of contract
- C** The right of the innocent party to terminate depends on the seriousness of the breach
- D** The right of the innocent party to obtain damages depends on the seriousness of the breach

(2 marks)

21 In the context of the Cyprus legal system, which of the following is ALWAYS within the jurisdiction of the District Court of Nicosia?

- A** Determining a claim for unlawful dismissal of an employee
- B** Determining a claim for damages for breach of contract filed by a plaintiff residing in Nicosia
- C** Trying a criminal case for an offence committed in Nicosia punishable with up to one year imprisonment

(1 mark)

22 Anna has entered into a contract with Ben for the benefit of her daughter Chloe. Anna and Ben are in breach of their contractual obligations.

Which of the following is correct in relation to the doctrine of privity?

- A** Chloe can sue Ben for breach of contract but cannot sue Anna
- B** Chloe can sue Anna for breach of contract but cannot sue Ben
- C** Anna and Ben cannot sue each other for breach of contract
- D** Chloe cannot sue Anna or Ben for breach of contract

(2 marks)

23 Which of the following rights are available to an employee who has been made redundant?

- (1) To receive compensation from the employer
- (2) To receive redundancy payment by the Redundancy Fund
- (3) To receive notice before dismissal

- A** (2) only
- B** (1) and (3)
- C** (1), (2) and (3)
- D** (2) and (3)

(2 marks)

24 Which of the following doctrines justifies acting in a manner not regulated by law but required in prevailing circumstances by supreme public interest for the salvation of the state and its people?

- A** The doctrine of judicial discretion
- B** The doctrine of necessity
- C** The doctrine of natural justice
- D** The doctrine of precedent

(2 marks)

25 In relation to the law of agency, what is the effect of ratification?

- A** The principal is bound by the contract from the date on which it was originally made
- B** The principal is bound by the contract from the date of ratification
- C** The agent remains liable to the third party for breach of warranty of authority

(1 mark)

26 Which of the following statements in relation to the tort of passing off are true?

- (1) It causes personal injury to another
- (2) It involves imitation of the name, description or label of goods
- (3) It cannot be committed by reason only of the use of one's own name
- (4) A cause of action for passing off requires actual damage to have occurred to the business of another

- A** (1) and (2)
- B** (2) and (4)
- C** (2) and (3)
- D** (3) and (4)

(2 marks)

27 Which of the following will NOT constitute valid consideration for the purposes of forming a contract with the offeror?

- A Promise to complete pre-existing contractual duty with no additional benefit to the offeror
- B Consideration already paid to the offeror
- C Promise to pay the offeror
- D Promise to pay a third party

(2 marks)

28 In the context of the Cyprus legal system, which of the following does NOT constitute a separate court?

- A Assize court
- B Family court
- C Rent control tribunal
- D Electoral court

(2 marks)

29 In the context of the Companies Law Cap. 113, which of the following is NOT required for the removal of a director from office?

- A Ordinary resolution
- B Special resolution
- C Special notice

(1 mark)

30 Which of the following is NOT a consequence of the doctrine of incorporation?

- A Acts of the company are nothing but the acts of its members
- B Absence of liability of members for the company's debts
- C Company's existence is not affected by existence of its members

(1 mark)

31 Myriam has been continuously employed for two years.

Which of the following states the minimum period of notice she is entitled to?

- A Four weeks
- B Five weeks
- C Six weeks

(1 mark)

32 Which TWO of the following MUST be met, for a dismissed employee to receive compensation from their employer?

- (1) Dismissal was based on a valid reason
- (2) The employee was continuously employed by the employer for 26 weeks
- (3) The employer employs more than 19 employees
- (4) The employee has not reached retirement age by the time of termination

- A** (1) and (3)
- B** (1) and (4)
- C** (2) and (3)
- D** (2) and (4)

(2 marks)

33 Which of the following is TRUE in relation to registration of company charges pursuant to the Companies Law Cap. 113?

- A** Details of the charge must be delivered to the Registrar of Companies for registration within ten days after the date of its creation
- B** Failure to register the charge invalidates the security
- C** Registration can be effected even after expiration of the relevant period prescribed by law subject to court approval
- D** Only the person creating the charge may apply for its registration

(2 marks)

34 Which of the following are taken into account when determining whether a false statement is a contractual term or a mere representation?

- (1) Whether the statement was put in writing
- (2) The importance of the statement to the recipient
- (3) Whether the person making the statement knew it was false
- (4) Whether the recipient of the statement suspected it was false

- A** (1) and (2)
- B** (2) and (3)
- C** (1), (2) and (4)
- D** (1), (2) and (3)

(2 marks)

35 Which of the following is NOT normally decided by the company in a general meeting?

- A** Declaration of dividends
- B** Removal of directors
- C** Removal of auditors
- D** Removal of secretary

(2 marks)

36 In the context of contract law, booking a travel ticket online is which of the following?

- A** An invitation to treat
- B** An offer
- C** An acceptance

(1 mark)

37 Which of the following in relation to a limited partner is true?

- A** They can take part in the management of the partnership
- B** They have power to bind the partnership
- C** They are not entitled to dissolve the partnership by notice

(1 mark)

38 Anna agreed to hire Bryan's theatre on a particular night. As a result of a fire, the theatre was destroyed prior to the date for performance of the contract.

Which of the following methods of discharge of a contract is this an example of?

- A** Anticipatory breach
- B** Frustration
- C** Breach of a fundamental term
- D** Performance

(2 marks)

39 According to the Companies Law Cap. 113, which of the following is NOT required to reduce the share capital of a company?

- A** Authorisation for the reduction under the company's articles of association
- B** Approval by the company's board of directors
- C** Special resolution
- D** Court approval

(2 marks)

40 Which of the following statements regarding contractual agreements is true?

- A** Consideration has to be in monetary terms
- B** The agreement must be evidenced in writing
- C** There must be intention to create legal relations

(1 mark)

41 In which of the following circumstances will an employee who is dismissed NOT be entitled to receive notice prior to the termination?

- (1) Redundancy
- (2) Failing to exercise their duties in a reasonably satisfactory manner
- (3) Expiration of the contract of employment
- (4) Reaching of age of retirement

- A** (1) and (2)
- B** (2) and (3)
- C** (3) and (4)
- D** (1), (3) and (4)

(2 marks)

42 In the context of the Insider Dealing and Market Manipulation (Market Abuse) Law 116(I)/2005, which of the following does NOT constitute insider dealing by a person who possesses inside information?

- A** Acquisition of financial instruments to which that information relates
- B** Disclosing that information in the normal course of their employment
- C** Recommending disposition of financial instruments to which that information relates
- D** Disclosing that information to their boss

(2 marks)

43 What is the minimum notice required to convene an extraordinary general meeting at which an extraordinary resolution will be proposed?

- A** 14 days
- B** 21 days
- C** 28 days

(1 mark)

44 Which of the following has the power to sell the company's assets after a winding up order has been made?

- A** The liquidator
- B** The court
- C** The board of directors
- D** The official receiver

(2 marks)

45 Which type of information about company directors is NOT included in the statutory registers maintained by a company?

- A** Directors' shareholdings in the company
- B** Directors' shareholdings in other companies
- C** Particulars of other directorships held by company directors

(1 mark)

Section B – ALL FIVE questions are compulsory and MUST be attempted

Please write your answers to all parts of these questions on the lined pages within the Candidate Answer Booklet.

1 Simon booked a room at a hotel and paid in advance. Simon stored his wallet in the room's wardrobe. The hotel cleaners left the door to his room open and Simon's wallet was stolen.

A notice was attached behind the door stating that the hotel was not liable for any loss of property left in the room whether by theft or otherwise.

Required:

(a) **Describe the purpose of an exclusion clause.** (2 marks)

(b) **Explain whether Simon will be able to claim for the loss of his wallet against the hotel.** (4 marks)

(6 marks)

2 Mary, Nina and Tony entered into a limited partnership in January 2013. Mary was a general partner while Nina and Tony were limited partners. Tony retired in December 2013 and was immediately replaced by Wallace, who joined the partnership thereafter as a limited partner. The management of the partnership was conducted by Mary and Wallace.

Sarah entered into a contract with the partnership in March 2014 for the provision of services. Even though Sarah fulfilled her obligations under the contract, the partnership refused to pay her agreed remuneration.

Required:

(a) **Identify the liability of Tony as a retiring partner.** (2 marks)

(b) **Identify the liability of Wallace as a new partner.** (2 marks)

(c) **State from whom Sarah can claim the outstanding debt.** (2 marks)

(6 marks)

3 Andrew is the managing director in a private limited liability company. Although there were no accounting profits shown in the company's financial statements as at the end of 2013, Andrew believes that the company's performance improved radically during the past year and wishes to reward its shareholders. Andrew examines the following options with a view to distributing funds to the shareholders:

- (1) Declaration of dividends
- (2) Declaration of interim dividends
- (3) Reduction of share capital
- (4) Redemption of redeemable preference shares.

Required:

In relation to the above options:

(a) **Explain which is the most appropriate option under the circumstances.** (4 marks)

(b) **State what is required in order to implement the above.** (2 marks)

(6 marks)

4 Clay is a member of the board of directors of a public company. Clay proposed that the company enters into a contract with Claire, for the purpose of providing administration services. Although the board of directors rejected the proposed collaboration with Claire, Clay purported to enter into a contract on behalf of the company with Claire. Claire performed the agreed services, but the company failed to pay her.

Required:

(a) **Identify the liability of the company as against Claire.** (2 marks)

(b) **Identify the liability of Clay as against the company.** (2 marks)

(c) **Identify the liability of Clay as against Claire.** (2 marks)

(6 marks)

5 Eddie and Fay are directors of ABC Ltd, a private limited liability company. George is appointed as external auditor of ABC Ltd. During 2013, Eddie used his business card in order to pay for various personal expenses.

In the course of preparation of the auditor's report, Eddie provided false information in order to cover for his personal expenses. George did not carry out any investigations in this regard.

Although Fay had no actual knowledge of Eddie's actions, she could have easily discovered that the company's books did not give a true and fair view of the state of the company's affairs.

Required:

(a) **Explain whether criminal or civil action, or both, can be taken against Eddie.** (2 marks)

(b) **Explain whether criminal or civil action, or both, can be taken against Fay.** (2 marks)

(c) **Explain whether criminal or civil action, or both, can be taken against George.** (2 marks)

(6 marks)

End of Question Paper