

Fundamentals Level – Skills Module

Corporate and Business Law (Irish)

Monday 10 June 2013



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 (IRL)

ACCA

ALL TEN questions are compulsory and MUST be attempted

1 In relation to the Irish legal system:

- (a) describe the structure of the main civil courts; (6 marks)
- (b) explain the concept of binding precedent as it exists and as it applies in the civil court structure. (4 marks)

(10 marks)

2 In relation to the law of contract, explain the meaning and effect of:

- (a) the intention to create legal relations; (5 marks)
- (b) the doctrine of privity. (5 marks)

(10 marks)

3 In relation to the law relating to the tort of negligence, explain:

- (a) the meaning of causation; (2 marks)
- (b) the meaning and effect of the 'but for' test; (4 marks)
- (c) the ways in which intervening acts or events may break the chain of causation (the doctrine of *novus actus interveniens*). (4 marks)

(10 marks)

4 In the context of the regulation of criminal behaviour, explain the nature and legal control over bribery.

(10 marks)

5 In relation to the rules governing the payment of company dividends, explain:

- (a) how dividends may be properly funded; (4 marks)
- (b) the rules which apply to public limited companies; (3 marks)
- (c) the consequences of any dividend being paid in breach of the rules. (3 marks)

(10 marks)

- 6 In the context of company law, explain the meaning of the following duties owed by directors to their companies:
- (a) the duty to act *bona fide* in the best interests of the company; (3 marks)
 - (b) the duty not to act for any collateral purpose; (4 marks)
 - (c) the duty to avoid conflicts of interest. (3 marks)

(10 marks)

- 7 In the context of contracts of employment, explain the COMMON LAW duties imposed on:

- (a) employers; (6 marks)
- (b) employees. (4 marks)

(10 marks)

- 8 Ano Ltd is a publisher specialising in producing scientific textbooks.

In January 2013, it decided to produce a new edition of a particular book and commissioned Box and Cox to produce the work. Box was to provide the text and Cox was to produce the extensive diagrams and each of them was to be paid €5,000. The contract entered into between Ano Ltd and Box required the text to be produced by 30 April 2013 and the terms of Cox's contract required the diagrams to be submitted by 30 June 2013.

In March 2013, Box informed Ano Ltd that he would not supply the finished text on time unless Ano Ltd increased his payment by €1,000. Ano Ltd agreed to the increase but when Box submitted his invoice on delivering the text, Ano Ltd refused to pay the additional amount.

In May 2013, Cox informed Ano Ltd that he was no longer willing to produce the diagrams for the book. Ano Ltd can get someone else to produce the diagrams, but given the time lost, they will have to pay an additional €500 to produce the diagrams on time for printing the textbook as originally planned.

Required:

In the context of the law of contract, advise:

- (a) what action Box can take against Ano Ltd to enforce the additional payment; (5 marks)
- (b) what action Ano Ltd can take against Cox for his refusal to produce the diagrams. (5 marks)

(10 marks)

- 9 In 2008, Dee, Fi, Gee and Ki formed a private limited company to pursue chemical research. They each took 100 shares in the company and each of them became a director in the company. The articles of association of the company were drawn up to state that Dee, a qualified accountant, was to act as the company secretary for a period of five years, at a yearly salary of €20,000.

In May 2012, Fi, Gee and Ki discovered that Dee had passed on some research results to a rival company.

As a consequence, Fi, Gee and Ki propose the following measures:

- (a) to remove Dee from the board of directors; (2 marks)
- (b) to dismiss Dee from her post as company secretary without any payment for the work she has already done, in spite of Dee's claim that she has a contract of employment by virtue of the articles of association and that she cannot be removed before the five-year period is completed; (4 marks)
- (c) to alter the articles of association to require Dee to sell her shares to them. (4 marks)

Required:

Advise Fi, Gee and Ki as to the legality of the above proposals and how they may be achieved.

Note: The split of the mark allocation is shown against each of the proposals above.

(10 marks)

- 10 In January 2011, Han, Ita and Jo formed a partnership, under the Partnership Act 1890, to run a pottery business trading under the name HIJ Potteries. On formation, Han introduced €6,000 into the business, Ita introduced €3,000 and Jo introduced €1,000. All of them took an active part in the operation of the business and the partnership agreement stated that all profits and losses should be divided in proportion to the capital contribution. However, as Jo was the person who would actually be making the pottery, it was agreed that she would not be liable for any more than her initial contribution towards any future debts. After some time, Han provided the partnership with a loan of €1,000 in order to sustain the operation of the business.

Unfortunately, the business was not successful and made significant losses. The partners concluded that it would be best to stop trading and dissolve the partnership. Its assets were worth €5,000 and its external debts were €9,000.

Required:

In the context of the particular form of the partnership, explain the potential liabilities of Han, Ita and Jo for the partnership debts.

(10 marks)

End of Question Paper