

Advanced GCE
Applied Business
Unit F256: Business Law
Specimen Paper

F256

Time: 2 hours

Candidates answer on the question paper.

Additional materials:
None

Candidate
Forename

Candidate
Surname

Centre
Number

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Candidate
Number

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INSTRUCTIONS TO CANDIDATES

- Write your name in capital letters, your Centre Number and Candidate Number in the boxes above.
- Use black ink. Pencil may be used for graphs and diagrams only.
- Read each question carefully and make sure you know what you have to do before starting your answer.
- Answer **all** the questions.
- Do not write in the bar codes.
- Do not write outside the box bordering each page.
- Write your answer to each question in the space provided.

INFORMATION FOR CANDIDATES

- The number of marks for each question is given in brackets [] at the end of each question or part question.
- Your Quality of Written Communication is assessed in the question marked with an asterisk (*).
- The total number of marks for this paper is **100**.

FOR EXAMINER'S USE	
1	
2	
3	
4	
TOTAL	

This document consists of **14** printed pages and **2** blank pages.

(ii) the Articles of Association

- 1.
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- 2.
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[4]

(b) One of the main reasons why Trevor set up *Trevor's Trees* as a company (*TT Ltd*) was that he would have limited liability. What is meant by the term **limited liability**?

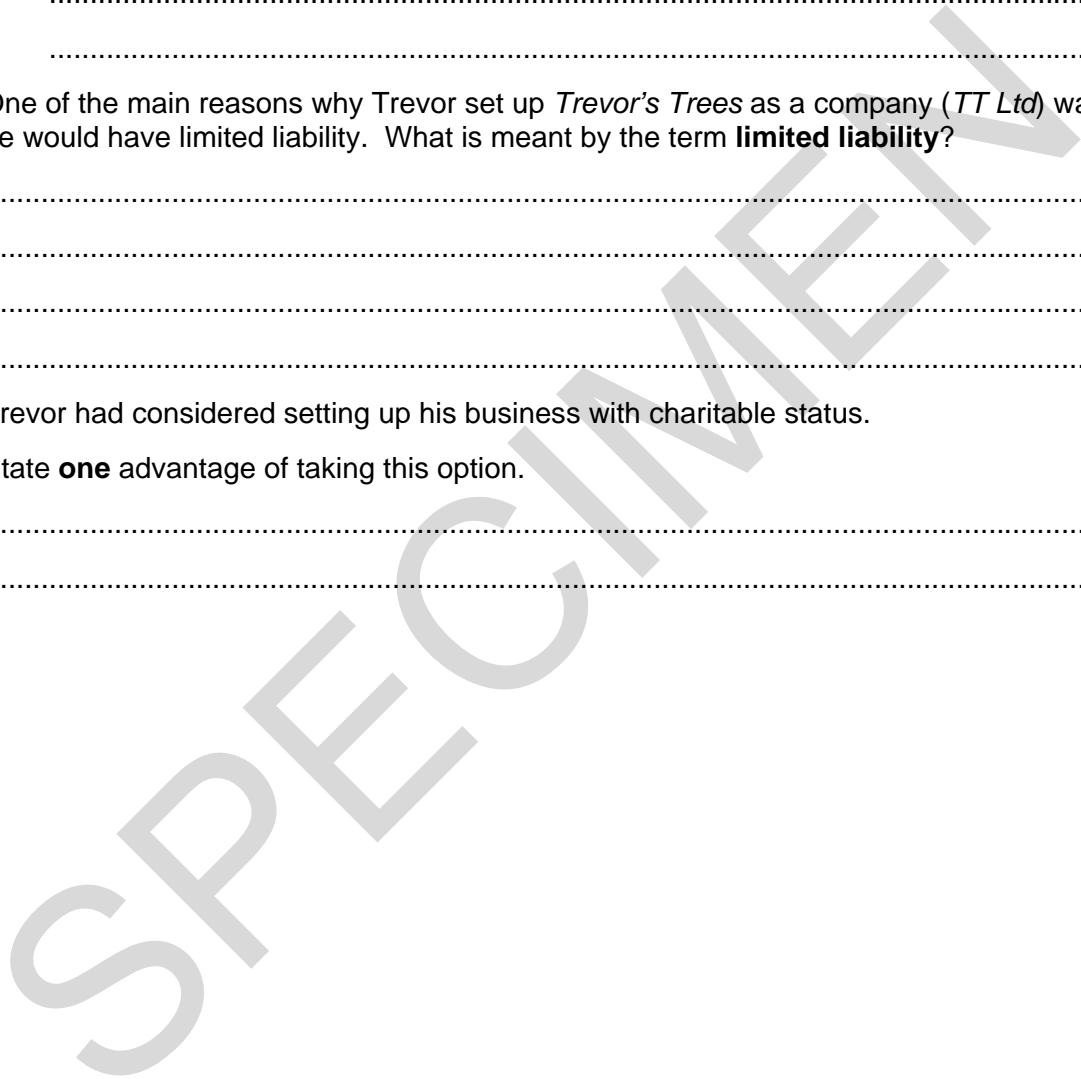
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[2]

(c) Trevor had considered setting up his business with charitable status.
State **one** advantage of taking this option.

-

[1]



Text 3

With the WW Ltd contract, came the need for considerable expansion of *TT Ltd*, in the short-term at least, as the amount of work began to increase. In June 2008 Trevor felt the need to employ eight new temporary forestry workers. He had a rather old-fashioned view about the type of person he wanted to employ, 'big, tough, young, able-bodied men', Trevor was heard to say by one of his employees. Eight staff were duly recruited, all of whom were Forestry and Estate Management students looking for a 'casual' summer job which gave them some valid work experience.

Trevor ran his business with very little regard to health and safety. Trevor assumed that the students he had employed would want to fell big trees with big chainsaws and would hardly want boring safety briefings or to read safety documents - so he did not bother. The chainsaws, which were brand new and imported from a cheap supplier, were stored near cans of petrol - some of which Trevor thought were cracked and leaking judging by the smell. Trevor did, however, take some safety measures. He:

- gave the new staff the chainsaw instructions to have a look at;
- checked that they had a mobile phone to contact him if there was an injury;
- put up a few paper signs saying that tree felling was in progress.

Trevor did not really organise a system for felling the trees. The students divided themselves into two groups of four and, to break the monotony of the work, competed against each other to cut down as many trees as possible. Trevor quietly encouraged this.

It was not surprising that within 5 weeks the first 'accident' had happened. The two groups, working on adjacent trees, managed to fell them onto each other. It was amazing that the only injuries were one damaged shoulder and one broken arm.

3 Refer to Text 3.

(a) Describe how common law is formed.

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..... [2]

(b) Employers and employees must adhere to common law duties.

(i) Explain **two** common law duties Trevor has as an employer.

1.

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2.

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..... [4]

(ii) Explain **two** common law duties the forestry workers have as employees.

1.
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2.
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..... [4]

(c) Explain what impact the Minimum Wage Act is likely to have on *TT Ltd.*

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..... [3]

SPECIMEN

(b) Describe the main provisions of the Insolvency Act.

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..... [2]

[Total: 10]

Paper Total [100]

SPECIMEN

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OXFORD CAMBRIDGE AND RSA EXAMINATIONS

Advanced GCE

APPLIED BUSINESS

F256

Unit F256: Business Law

Specimen Mark Scheme

The maximum mark for this paper is **100**.

SPECIMEN

Question Number	Answer	Max Mark
<p>1(a)</p> <p>(i)</p>	<p>When Trevor originally set up the company, he had to prepare the Memorandum of Association and the Articles of Association. Explain <u>two</u> items that Trevor would have included in:</p> <p>the Memorandum of Association</p> <p>One mark for each correct identification up to a maximum of two identifications, plus a further one mark for each of two explanations.</p> <p>Possible responses may include:</p> <ul style="list-style-type: none"> • name (1); • states plc (if this is the case) (1); • where registered (1); • objects clause (1); • liability of members is limited (1); • details of authorised share capital & division of shares (1); • signed declaration (1). <p>Eg A statement of the name (1), in this case, simply <i>TT Ltd</i> (1).</p>	<p>[4]</p>
<p>(ii)</p> <p>1(b)</p>	<p>the Articles of Association</p> <p>One mark for each correct identification up to a maximum of two identifications, plus a further one mark for each of two explanations.</p> <p>Possible answers may include:</p> <ul style="list-style-type: none"> • issue and transfer of shares (1); • the voting rights of different share types (1); • how/when AGMs called (1); • payment of dividends (1); • appointment and powers of directors (1). <p>Eg The voting rights of share types (1). Here <i>TT Ltd</i> has probably only got ordinary shares held by Trevor and his sisters (1).</p> <p>One of the main reasons why Trevor set up <i>Trevor's Trees</i> as a company (<i>TT Ltd</i>) was that he would have limited liability. What is meant by the term <u>limited liability</u>?</p> <p>Limited liability means that shareholders are only liable to meet the debts of the business to the extent of their investment in the business. Personal possessions cannot be claimed to pay off company debts.</p> <p>Eg Shareholders are liable to meet the debts of the business only to the extent that they have invested in the business (1). <i>TT</i> is a limited company and so Trevor cannot lose his personal possessions if the company gets into financial difficulties (1).</p>	<p>[4]</p> <p>[2]</p>

Question Number	Answer	Max Mark
1(c)	<p>Trevor had considered setting up his business with charitable status. State <u>one</u> advantage of taking this option.</p> <p>One mark for a correct identification.</p> <p>Possible responses may include:</p> <ul style="list-style-type: none"> • tax reasons (1); • claim government grants (1); • increase public awareness (1); • act as a selling point (1); • encourage donations (1). 	[1]
1(d)	<p>Evaluate Trevor's idea that <i>TT Ltd</i> should become a public limited company.</p> <p>Should be looked at in the context of the issues relating to a forestry firm. The main issues are to do with control, cost and finance. To include some of the points below.</p> <p>Min membership = 1 in Ltd, 2 in plc Min authorised capital - none in Ltd, £50,000 in plc Public v private share issue - ownership issue, dividend payments, increased share capital Accounts - plc has very strict format, Ltds can submit simplified/modified accounts - plc's must be published Company secretary - plc must be qualified, Ltd not qualified Size - plc large, Ltd usually smaller Plus procedure of going public - special resolution, change to Memo/Articles, submit declaration, re-registration</p> <p>Level 4 (10 – 14 marks) Candidate provides a detailed evaluation of whether or not <i>TT Ltd</i> should become a public limited company. Candidate should reach a reasoned judgement based on a two-sided analysis to achieve L4.</p> <p>Level 3 (6 – 9 marks) Candidate evaluates some of the factors such as advantage(s) and disadvantage(s) of the proposal that <i>TT Ltd</i> should become a public limited company.</p> <p>Level 2 (3 – 5 marks) Candidate makes an attempt to evaluate the idea that <i>TT Ltd</i> should become a public limited company.</p>	

	<p>Level 1 (1 – 2 marks) Candidate demonstrates knowledge of private and public limited companies with no reference to TT Ltd and its situation.</p> <p>0 marks – no response or response does not address the question.</p> <p>Eg Public limited companies have to sell shares on the stock market (L1). TT Ltd would need to go through the process urgently if it is to meet the WW Ltd contract (L2). This would present problems in that Trevor could lose a great deal of control (L3), but he is clearly ambitious and the huge amount of extra finance this brought in would outweigh this consideration (L4).</p>	
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SPECIMEN

Question Number	Answer	Max Mark
2(a)	<p>Explain <u>one</u> advantage to <i>TT Ltd</i> of formalising contracts with its suppliers.</p> <p>One mark for a correct identification plus a further one mark for an explanation in context.</p> <p>Possible responses may include:</p> <ul style="list-style-type: none"> • can be referred back to in case of disagreement; • legally binding; • can use in court if necessary; • makes the agreement official; • both parties know where they stand. <p>Eg Creating a contract means that both parties know what they have agreed to (1). The supplier would know what they have agreed to supply and <i>TT Ltd</i> how much they have agreed to pay (1).</p> <p>Eg A contract is legally binding (1). If the supplier breaks the contract <i>TT Ltd</i> can apply to the courts for legal action to be taken (1).</p>	[2]
2(b)	<p>Explain <u>four</u> elements which should have been present to make the contract between <i>TT Ltd</i> and FL legally enforceable.</p> <p>One mark for each correct identification up to a maximum of four identifications, plus a further one mark for each of four developments.</p> <p>Possible responses may include:</p> <ul style="list-style-type: none"> • offer (1) - a statement without misrepresentation (1); • acceptance (1) - unconditional consent to all terms (1); • consideration (1) - or some element of mutual exchange (1); • intention (1) - both parties intending to be legally bound by the contract (1); • capacity (1) - ability/authority to make a contract (1); • legality (1) – acceptable under UK law (1). <p>Eg Intention (1). Both parties should have entered into the contract wishing to be legally bound (1).</p> <p>Eg Intention (1). It appeared that Ferty Liser did not really want to be bound to a contract (1).</p>	[8]

Question Number	Answer	Max Mark
2(c)	<p>Explain <u>three</u> ways in which contracts, such as one between <i>TT Ltd</i> and any of its suppliers, could be terminated.</p> <p>One mark for each correctly identified method up to a maximum of three identifications, plus one mark for each of three developments.</p> <p>Possible responses may include:</p> <ul style="list-style-type: none"> • discharge by performance - both parties completed what they had agreed to; • mutual agreement; • event that frustrates performance - eg change in law; • breach of contract - other than leaving mid term; • illegal contract. <p>Eg The contract could be ended by a mutual agreement (1). Both <i>TT Ltd</i> and a supplier must agree entirely with this decision (1).</p>	[6]
2(d)	<p>Trevor was concerned about the need for secrecy surrounding the new variety of timber. Explain how the Copyright, Designs and Patents Act might help <i>TT Ltd</i>.</p> <p>Possible responses may include:</p> <ul style="list-style-type: none"> • registration under the act give intellectual property right protection; • stops people copying his new tree 'invention'; • can sell the copyright of his new tree; • could sell the idea under license. <p>Not trade marks.</p> <p>Eg The CDP Act protects intellectual property (1). The owner of the new variety of timber (<i>TT Ltd</i>) has exclusive rights to use this variety (1) and no one else is allowed to copy/steal it (1). <i>TT Ltd</i> could gain a large sum of money either by licensing its use (1) or by selling it at a later date (1).</p>	[3]
3(a)	<p>Describe how common law is formed.</p> <p>Up to two marks, one mark for each correct point made to a maximum of two.</p> <p>Common law is made up of legal principles decided by judges where, at the time of the case, no legislation to cover the case was in force. These written decisions of judges then become binding in future similar cases.</p> <p>Eg These laws are made by the decisions of judges in court cases (1). Some of these decisions may have been made in the nineteenth century but are still valid today (1).</p>	

Question Number	Answer	Max Mark
3(b) (i)	<p>Eg Legal principles are laid down in previously decided cases (1). Judges can exercise 'judicial precedent' which means to 'stand by what has already been decided' (1).</p> <p>Eg Common law is the body of law created by judges overtime (1) based on judicial precedent (1).</p> <p>Employers and employees must adhere to common law duties.</p> <p>Explain <u>two</u> common law duties Trevor has as an employer.</p> <p>One mark for each duty correctly identified up to a maximum of two, plus a further one mark for each of two explanations.</p> <p>Possible responses may include:</p> <ul style="list-style-type: none"> • pay as agreed in contract; • provide safe working conditions; • not undermine trust and confidence. <p>Award the development mark for explanation or context.</p> <p>Eg Must provide a safe working environment (1). If an employee alerts Trevor to a leaking petrol can Trevor must take action to minimise the risk (1).</p>	[2]
	<p>Eg <i>TT Ltd</i> must pay the students (1) as stated in their contract (1).</p> <p>(ii) Explain <u>two</u> common law duties the forestry workers have as employees.</p> <p>One mark for each duty correctly identified up to a maximum of two, plus a further one mark for each of two explanations.</p> <p>Possible responses include:</p> <ul style="list-style-type: none"> • carry out their work with reasonable skill and care; • obey reasonable orders; • act in good faith. <p>Award the development mark for explanation or context.</p> <p>Eg Employees should obey all reasonable instructions from their employers (1). If Trevor asks a worker to work in a different area of the forest to avoid congestion this should be obeyed (1).</p> <p>Eg An employee must take reasonable care when felling a tree (1) and always alert fellow workers when a tree is about to fall (1).</p>	

Question Number	Answer	Max Mark
3(c)	<p>Explain what impact the Minimum Wage Act is likely to have on <i>TT Ltd</i>.</p> <p>One mark for a correct identification up to a maximum of one, plus a further two marks for explanation.</p> <p><i>TT Ltd</i> must pay the forestry workers at least the national minimum wage.</p> <p>Award correct age/levels as explanation if given.</p> <p>Eg <i>TT Ltd</i> must pay the forestry workers at least the national minimum wage (1). This may mean it has to pay more than it otherwise would (1), increasing costs (1) and lowering profits (1).</p> <p>Eg <i>TT Ltd</i> will be in legal trouble (1) if they do not pay the forestry workers enough (1).</p> <p>Eg Paying wages under the NMW could result not only in a fine (1) but also negative media coverage for the <i>TT Ltd</i> (1).</p>	[3]
3(d)	<p>Explain how Trevor's attitude to recruiting staff could contravene the Employment Equality (Age) Regulations.</p> <p>One mark for a correct identification up to a maximum of one, plus a further one mark for explanation.</p> <p>The Employment Equality (Age) Regulations makes it illegal for an employer to discriminate against an employee or a potential employee on the grounds of age.</p> <p>Eg The regulations make it illegal for Trevor to discriminate against an employee on the grounds of age (1). Trevor specifically refers to wanting to recruit someone who is "young" and this therefore breaks the law (1).</p> <p>Eg Trevor cannot reject a prospective employee because of their age (1). Trevor may be fined if he breaks the law (1).</p>	[2]
3(e)	<p>Evaluate <i>TT Ltd's</i> position with regard to current anti-discrimination legislation.</p> <p>Many issues can be discussed/speculated upon:</p> <ul style="list-style-type: none"> • sex discrimination - Sex Discrimination Act. • Illegal to discriminate on gender. Men stronger? More suitable for job? Valid argument? • disability discrimination - Disabilities Discrimination Act Suitability? Mobility on forest terrain? Type of disability? • age discrimination - Employment Equality (Age) Regulations. • Illegal to discriminate on age. Age relevant? Minimum wage? 	

- racial discrimination - Race Relations Act.
- Must not discriminate on grounds of race. Poor recruitment policy – this may be happening also.
- equal pay - Equal Pay Act.
- Men and women must be paid same amount for same job. Any women?
- Official recruitment policy versus personal attitude.
- Court action, fines, industrial tribunals, bad publicity etc.
- Industrial action effect on industrial relations, meeting contracts etc.

Level 4 (10 – 14 marks)

Candidate provides a detailed evaluation of the current position of *TT Ltd* in relation to anti-discrimination legislation.

Candidate should reach a reasoned judgement based on a two-sided analysis to achieve **L4**.

Level 3 (6 – 9 marks)

Candidate evaluates some of the factor(s) relating to anti-discrimination legislation in *TT Ltd*.

Level 2 (3 – 5 marks)

Candidate makes an attempt to evaluate some of the factor(s) relating to anti-discrimination legislation in *TT Ltd*.

Level 1 (1 – 2 marks)

Candidate demonstrates knowledge of anti-discrimination legislation with no reference to the case study.

0 marks – no response or response does not answer the question.

Eg It is illegal to discriminate on the grounds of gender (**L1**). Steve says he wants to employ only men (**L2**). Although Steve said this it may just have been idle chatter and not his actual recruitment policy (**L3**). If all the students he has employed are men then this would point to a biased recruitment policy and *TT Ltd* may be fined (**L3**). However due to the nature of the work requiring such physical strength it is likely that the majority of applicants would be male (**L3**) and if Steve chose the best people for the job for those that applied he has not broken the law (**L4**).

Eg It is illegal to discriminate on the grounds of age (**L1**) under the Employment Equality (Age) Regulations (**L1**). Steve says he wants only young people (**L2**). Deliberately recruiting only young people would break the law (**L3**), especially if it was done in order to pay the lower level of national minimum wage (**L3**). If Steve is thinking that young people are likely to be fitter and healthier to do the job then he has a valid point (**L3**) but he must choose the best person for the job on the basis of their ability to do the job not on their age or he is in breach of anti-discrimination legislation (**L4**).

<p>3(f)</p>	<p>State <u>three</u> principles of the Health and Safety at Work Act.</p> <p>One mark for each correct identification up to a maximum of three identifications.</p> <p>Possible responses may include:</p> <ul style="list-style-type: none"> • the provision and maintenance of plant and systems of work (1); • safe use, handling, storage and transportation of items (1); • provide information, instruction, training and supervision necessary to ensure H & S of workers (1); • maintenance of place of work (1); • maintenance of working environment (1); • Health & Safety Executive inspection (1). 	<p>[3]</p>
<p>3(g)*</p>	<p>Evaluate the extent to which <i>TT Ltd</i> might be in breach of health and safety legislation.</p> <p>Level 4 (10 – 14 marks)</p> <p>Candidate provides a detailed evaluation of the current position of <i>TT Ltd</i> in relation to health and safety law.</p> <p>Candidate should reach a reasoned judgement based on a two-sided analysis to achieve L4.</p> <p>Ability to present relevant material in a well planned and logical sequence. Material clearly structured using appropriate business terminology confidently and accurately. Sentences, consistently relevant are well structured in a way that directly answers question. There will be few, if any errors of grammar, punctuation and spelling.</p> <p>Level 3 (6 – 9 marks)</p> <p>Candidate evaluates some of the issue(s) at <i>TT Ltd</i> relating to health and safety law.</p> <p>Ability to present relevant material in a planned and logical sequence. Appropriate business terminology used. Sentences for the most part relevant presented in a balanced, logical and coherent manner which addresses the question. There will be occasional errors of grammar, punctuation and spelling.</p> <p>Level 2 (3 – 5 marks)</p> <p>Candidate makes an attempt to evaluate some of the issue(s) at <i>TT Ltd</i> relating to health and safety law</p> <p>Limited ability to organise relevant material. Some appropriate business terminology used. Sentences are not always relevant with material presented in a way that does not always address the question. There may be noticeable errors of grammar, punctuation and spelling.</p> <p>Level 1 (1 – 2 marks)</p> <p>Candidate demonstrates knowledge of health and safety legislation with no reference to <i>TT Ltd</i>.</p> <p>Ability to communicate at least one point using some appropriate business terminology. Sentences have limited coherence and structure, often being of doubtful relevance to the main focus of question. Errors of grammar, punctuation and spelling may be noticeable and intrusive.</p> <p>0 marks – no response or response does not answer the question.</p>	

	<p>Many issues here - any of the following can be discussed/speculated on:</p> <ul style="list-style-type: none"> • no safety documentation for staff (or anyone?) • no safe storage of petrol • no training - only gave the chainsaw instructions • no safe (or any) system of work • no proper signage <p>Eg Common law demands that an employer provides a safe working environment for employees (L1). Furthermore the Health and Safety at Work Act stipulates certain minimum standards that must be met (L1) such as the undertaking of a risk assessment (L1) and the provision of a trained first aider (L1). [+1 mark]</p> <p>Eg Appropriate training should be given by employers (L1). This was not the case here (L2). Trevor simply got the staff to read the chainsaw instructions, although he could claim that this in itself was training (L3). However, given the nature of the job (dangerous), it would seem obvious that new and inexperienced employees should be given extensive training. Trevor is clearly in breach of HSWA (L4).</p>	[14]
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Question Number	Answer	Max Mark
4(a)	<p>Describe <u>four</u> steps involved in the voluntary liquidation of a company such as <i>TT Ltd</i>.</p> <p>One mark for each correct step identified up to a maximum of four steps, plus a further one mark for each of four explanations.</p> <p>Voluntary liquidation comes in two forms :</p> <ul style="list-style-type: none"> - members' voluntary liquidation when the company is solvent but at least 75% of the directors want the company to be liquidated - creditors' voluntary liquidation when no declaration of solvency can be declared. <p>Accept reference to either form.</p> <p>Procedure for voluntary liquidation:</p> <p>Declaration made (1) directors declare to shareholders their intention to liquidate the company (1); General meeting held (1) and special resolution passed (1); Notice of resolution given to the general public (1) by placing an announcement in the London Gazette (1); Notice given to Companies House (1) by sending a copy of the resolution within 15 days of general meeting(1); Meeting of creditors held within 14 days (1) so that they can try to recover losses (1); Liquidator appointed (1) – directors dismissed (1); Employees' contracts terminated (1) (unless liquidator decides to re-employ them) (1); Liquidator sells firm's assets (1) to raise funds to pay creditors (1); Liquidation fees paid (1); Pay creditors in order of preference(1) wages, tax, secured creditors, unsecured creditors (1); Remaining funds divided between shareholders (1); Final meeting of creditors (1); Final account returned to Companies House (1).</p> <p>NB the question relates to voluntary wind-up, do not award the compulsory route.</p> <p>No context required.</p> <p>Eg a special resolution will be passed (1). This is where Trevor and the other shareholders make a special agreement to liquidate the company (1).</p> <p>Eg Firm's assets are sold (1) in order to raise money to pay off the company's debts (1).</p> <p>Eg <i>TT Ltd's</i> employees' contracts are terminated (1) and they are paid any wages owed (1).</p>	[8]

Question Number	Answer	Max Mark
4(b)	<p>Describe the main provisions of the Insolvency Act.</p> <p>One mark for each correct identification, up to a maximum of two.</p> <p>The Insolvency Act is the main piece of legislation controlling the dissolution of businesses. It applies to solvent as well as insolvent businesses. It addresses the qualification and appointment of insolvency practitioners, including administrators. It controls the way a business can dissolve – specifically in this context the procedures for administration. It also lays out rules for dealing and communicating with creditors and creates an order of preference for paying them. Strict rules are laid down for all procedures concerning a company in administration.</p> <p>Eg The Insolvency Act applies to all companies whether they can pay their debts or not (1). In this case <i>TT Ltd</i> can probably pay its debts but still needs to follow the procedures for winding down a company laid down in the Act (1).</p> <p>Eg The Insolvency Act demands that an administrator is qualified (1). Only a qualified insolvency practitioner can act as an Administrator to ensure that affairs are handled correctly (1).</p> <p>Eg The Insolvency Act lays down specific rules for companies in liquidation (1). This Act safeguards creditors because the company must follow these rules or be faced with a court order (1).</p>	[2]
Paper Total		[100]

Assessment Objectives Grid (includes QWC*)

Question	AO1	AO2	AO3	AO4	Total
1(a)(i)	2	2			4
1(a)(ii)	2	2			4
1(b)	2				2
1(c)	1				1
1(d)	2	3	4	5	14
2(a)	1	1			2
2(b)	4	4			8
2(c)	3	3			6
2(d)	1	2			3
3(a)	2				2
3(b)(i)	2	2			4
3(b)(ii)	2	2			4
3(c)	1	2			3
3(d)	1	1			2
3(e)	2	3	4	5	14
3(f)	3				3
3(g)*	2	3	4	5	14
4(a)	4	4			8
4(b)	2				2
Total	39	34	12	15	100