

Fundamentals Level – Skills Module

Corporate and Business Law (Malaysia)

Tuesday 3 June 2008

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 (MYS)

The ACCA logo consists of the letters 'ACCA' in a bold, white, sans-serif font, centered within a solid black rectangular background.

ALL TEN questions are compulsory and MUST be attempted

- 1 In the context of the Malaysian legal system:**
- (a) Explain how the doctrine of judicial precedent operates. (8 marks)
 - (b) State TWO advantages of the doctrine of judicial precedent. (2 marks)
- (10 marks)**
- 2 In the context of the law of agency, explain FIVE duties owed by an agent to his principal under the Contracts Act 1950.**
- (10 marks)**
- 3 (a) In relation to employment law, explain what is a contract of service. (4 marks)**
- (b) With reference to the Employment Act 1955, explain:**
- (i) whether a contract of service can be made orally; and
 - (ii) whether an employer can, under the contract of service, restrict an employee from being involved in a trade union or in trade union related activities. (6 marks)
- (10 marks)**
- 4 Upon incorporation a company is said to be clothed with a 'veil of incorporation'.**
- (a) Explain what is a 'veil of incorporation'. (3 marks)
 - (b) Explain FIVE situations in which the veil of incorporation may be lifted. (7 marks)
- (10 marks)**
- 5 In relation to the law of obligations:**
- (a) Explain and distinguish a tort from a contract. (4 marks)
 - (b) Explain the elements which must be established by a plaintiff in order to succeed in an action in the tort of negligence. (6 marks)
- (10 marks)**
- 6 In relation to the law concerning company formations:**
- (a) Discuss the duties of a company promoter. (4 marks)
 - (b) Explain the remedies available to a company for breach of duty by a promoter. (6 marks)
- (10 marks)**

7 With reference to the Companies Act 1965 and relevant illustrations, explain what is fraudulent trading and the legal consequences of such fraudulent trading. In your answer state also who can be made liable as well as who can initiate legal proceedings for fraudulent trading.

(10 marks)

8 On 1 April 2008, Bagus Bhd sent a notice to its members calling for an extraordinary general meeting to be held on 15 April 2008. At that meeting the following resolutions were passed:

- (i) A resolution to alter the name of the company from Bagus Bhd to Bintang Bhd. This resolution had the support of 80% of those present and voting.
- (ii) A resolution to appoint Jambu, aged 73, as a director of the company. This resolution had the support of 70% of those present and voting.

Meera, a member, was inadvertently not sent a notice of the meeting. She became aware of the meeting only a week after it was held. She strongly objects to both resolutions.

Required:

Advise Meera on the following:

(a) whether the validity of the meeting itself can be challenged on the ground that the requisite notice was not sent to her. (3 marks)

(b) whether the validity of the resolutions passed at the meeting can be challenged on any ground. (7 marks)

(10 marks)

9 Rose, Daisy and Petunia are the directors of Bloomwell Sdn Bhd, a company which specialises in the cultivation and sale of plants and flowers. They are also equal shareholders in the company. Two months ago, a quarrel broke out between Petunia and the other directors and since then, Petunia has refused to co-operate with Rose and Daisy on most company matters. Rose and Daisy, in an effort to dilute Petunia's voting power and prevent her from vetoing special resolutions intend to take the following courses of action:

- (i) Issue a substantial amount of new shares to Tulip, a close friend of Rose and Daisy; and
- (ii) Make the company provide a fixed charge on its land as security to Bank Senang Pinjam, which is prepared to give a loan to Tulip to finance the subscription of the shares.

Required:

Advise Petunia whether there are any grounds on which the validity of the proposed courses of action may be challenged.

(10 marks)

10 On 3 March 2008, Azman wrote to Benny offering to sell to Benny his yacht, Lightning, for RM1 million. The letter expressly stated that if Benny did not reply by 10 March 2008, he would be deemed to have accepted the offer. On 9 March 2008, Azman sent a letter to Benny revoking his offer. On 10 March 2008 Benny posted a letter to Azman accepting Azman's offer. Azman's letter of revocation reached Benny on 11 March 2008. Benny's letter of acceptance reached Azman on 12 March 2008.

Benny wishes to know whether there is a valid contract between him and Azman for the sale and purchase of the yacht, Lightning.

Required:

Advise Benny under the law of contract.

(10 marks)

End of Question Paper