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# ACCA Paper F4 (ENG) Corporate and Business Law September and December 2015 Final Assessment

### Instructions

- Please complete your personal details above.
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## Marking Report

### Notice to Markers

- 1 When commenting about the script performance, please ensure on individual questions and on overall assessment your comments cover areas of examination technique including:

<ul style="list-style-type: none"><li>• Time management</li></ul>	<ul style="list-style-type: none"><li>• Handwriting</li></ul>	<ul style="list-style-type: none"><li>• Presentation and layout</li></ul>	<ul style="list-style-type: none"><li>• Use of English</li></ul>
<ul style="list-style-type: none"><li>• Points clearly and concisely made</li></ul>	<ul style="list-style-type: none"><li>• Relevance of answers to question</li></ul>	<ul style="list-style-type: none"><li>• Coverage and depth of answer</li></ul>	<ul style="list-style-type: none"><li>• Accuracy of calculations</li></ul>
<ul style="list-style-type: none"><li>• Calculations cross-referenced to workings</li></ul>	<ul style="list-style-type: none"><li>• All parts of the requirement attempted</li></ul>	<ul style="list-style-type: none"><li>• Length of answers equates to marks available</li></ul>	<ul style="list-style-type: none"><li>• Read the question carefully</li></ul>

- 2 For each question, please provide suitable constructive comments

Question Number	General Comments	Exam Technique Comments

ACCA FINAL ASSESSMENT

# Corporate and Business Law

September and December  
2015

**Time allowed**            2 hours

This paper is divided into two sections:

Section A – ALL 45 questions are compulsory and MUST be answered.

Section B – ALL 5 questions are compulsory and MUST be answered.

**Do NOT open this paper until instructed by the supervisor.**

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

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Paper F4 (ENG)

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**SECTION A****ALL 45 QUESTIONS ARE COMPULSORY AND MUST BE ANSWERED**

- 1** What is the minimum notice period that a person who has been employed for eighteen months is entitled to?
- A One week
  - B One month
  - C Two months **(1 mark)**
- 2** Which division of the High Court will hear a bankruptcy case?
- A Queen's Bench Division
  - B Family Division
  - C Chancery Division **(1 mark)**
- 3** In relation to the tort of negligence, which of the following describes the standard of care expected of individuals?
- A What can be reasonably expected of them personally in the circumstances
  - B What a reasonable person would do in the circumstances
  - C What the person is actually capable of in the circumstances
  - D What is actually possible to do in the circumstances **(2 marks)**
- 4** In which TWO of the following agreements will intention to create legal relations be presumed?
- A An agreement between a man and his brother in relation to the transfer of property between them
  - B An agreement between two friends for one to wash the other's car
  - C An agreement between a mother and daughter for the daughter to pay the mother housekeeping money whilst she lives at home
  - D An agreement of employment between an employer and an employee **(2 marks)**
- 5** In relation to contract law, which of the following statements in relation to acceptance of an offer is incorrect?
- A Acceptance may be indicated by a person's silence
  - B Acceptance may be made verbally
  - C Acceptance may be inferred from a person's actions **(1 mark)**

- 6 Which of the following describes the liability of a sole trader for the debts of the business?**
- A Unlimited liability
  - B Limited by the amount of capital in the business
  - C Limited by the amount they guarantee to pay on winding up **(1 mark)**
- 7 In the context of contract law, what is the effect of a counter-offer on the original offer?**
- A Acceptance of the original offer as it stands
  - B Acceptance of the original offer with new terms introduced
  - C Rejection of the original offer
  - D No effect on the original offer **(2 marks)**
- 8 Which of the following sets out a company's internal constitution?**
- A Memorandum of association
  - B Articles of association
  - C Register of members **(1 mark)**
- 9 At which point does anticipatory breach of contract occur?**
- A At the time performance is due
  - B Before the time performance is due
  - C After the time performance is due **(1 mark)**
- 10 In the event of a general partnership being terminated, which of the following liabilities are repaid next, once all external debts have been settled?**
- A Partners' loan advances
  - B Partners' capital contributions
  - C Partners' share of profit **(1 mark)**
- 11 Which of the following parties does a company auditor owe their duty of care to?**
- A The members personally
  - B The directors
  - C The creditors
  - D The company as a whole **(2 marks)**

- 12 Which of the following is a condition that must be met in order for a principal to ratify the actions of an agent?**
- A Ratification must occur immediately after the contract is formed
  - B Ratification must be agreed with the third party
  - C The principal must have existed when the contract was formed **(1 mark)**
- 13 Where a compulsory liquidation order has been granted, which of the following is true?**
- A An insolvency practitioner is appointed as liquidator
  - B All employees are automatically dismissed
  - C Any legal proceedings against the company that are in progress at the time of the liquidation order are allowed to continue
  - D The company's directors continue to run the company whilst the liquidation process is on-going **(2 marks)**
- 14 Eamonn is an accountant who works for Mata Ltd, a company owned by Sean. Eamonn has devised a scheme where Mata Ltd can illegally disguise certain income so that the company's tax charge is reduced. Any tax that the scheme saves is paid to Sean as a dividend.**
- Which offence has Eamonn committed?
- A Tipping off
  - B Failure to prevent
  - C Laundering **(1 mark)**
- 15 In which of the following courts do all criminal cases begin?**
- A County Court
  - B Magistrate's Court
  - C Crown Court
  - D High Court **(2 marks)**
- 16 Pauline was recently dismissed from employment when her employer found out she was pregnant.**
- Which of the following types of dismissal is this an example of?
- A Unfair dismissal
  - B Wrongful dismissal
  - C Constructive dismissal **(1 mark)**

- 17 Which of the following is true concerning partnerships and legal charges?**
- A Partnerships can grant fixed charges only
  - B Partnerships can grant floating charges only
  - C Partnerships can grant both fixed and floating charges
  - D Partnerships can't grant fixed or floating charges **(2 marks)**
- 18 In the tort of negligence, if the defendant is able to establish that the claimant was partly responsible for their own injuries:**
- A The claimant cannot recover any compensation from the defendant
  - B The court will reduce the damages payable to claimant
  - C The court will award nominal damages only
  - D The court will dismiss the case **(2 marks)**
- 19 Which of the following statements regarding the adequacy and sufficiency of consideration is correct?**
- A Consideration does not need to have a value to be sufficient
  - B Consideration is sufficient if it has some economic value
  - C Consideration does not need to be sufficient but must be adequate **(1 mark)**
- 20 Which of the following contracts will the Unfair Terms in Consumer Contracts Regulations 1999 apply to?**
- A The supply of commercial goods from one business to another
  - B An agreement to buy a friend's car
  - C A mobile phone contract from a telecommunications company to a private individual
  - D An employment contract **(2 marks)**
- 21 Which of the following must a Bill receive in order to become an Act of Parliament?**
- A The Assent of the Prime Minister
  - B The Assent of the Government
  - C Royal Assent
  - D The Assent of the High Court **(2 marks)**
- 22 Which of the following statements in relation to the company secretary is correct?**
- A A company secretary of a private company must be qualified
  - B A company secretary of a public company must be qualified
  - C A company secretary must be appointed by the members in a general meeting **(1 mark)**



- 23 Which of the following statements relating to remedies in the law of contract is incorrect?**
- A The remedy of damages for breach of contract is available as of right
  - B The remedy of specific performance for breach of contract is available as of right
  - C The order of injunction is given at the discretion of the court **(1 mark)**
- 24 Which of the following is a right of the holder of a debenture that is secured by a fixed charge?**
- A Payment of a company dividend
  - B To vote at the company's general meeting
  - C To vote on resolutions
  - D To prevent the company from selling the asset secured by the charge **(2 marks)**
- 25 Which of the following reasons cannot justify the dismissal of an employee?**
- A The employee's misconduct
  - B The employee's incompetence
  - C The employee joins a trade union
  - D The employee is unable to do the job without contravening a statute **(2 marks)**
- 26 What is the quorum for a general meeting of a registered company?**
- A Two persons being members or proxies for members
  - B Three persons being members or proxies for members
  - C Two persons being members **(1 mark)**
- 27 Charlie is a shareholder, a director and the company secretary of SDC Ltd.**
- Which one of the following provisions of the company's Articles of Association is enforceable by Charlie?
- A Every share shall carry one vote
  - B Charlie shall be a director for life
  - C Charlie shall be entitled to be paid 10% more than any other director
  - D Charlie shall be the company secretary for life **(2 marks)**

**28 An administrator of a company has a number of powers that may or may not require the permission of the court to exercise.**

Which of the following is a power that usually requires court approval to exercise?

- A Appoint a director
- B Call a meeting of members
- C Make a payment to a preferential creditor
- D Make a payment to an unsecured creditor **(2 marks)**

**29 Pires plc last held an AGM on 31 October 2007. When must the company hold its next AGM?**

- A 31 October 2009
- B 31 December 2009
- C Within 6 months after the accounting reference date
- D Within 3 months after the accounting reference date **(2 marks)**

**30 The directors of a company are considering altering the company's articles of association. The alteration must be bona fide for the benefit of:**

- A Members and creditors
- B All current and future members
- C The company as a whole
- D The majority of the membership **(2 marks)**

**31 Popeye is the promoter of Spinach Ltd. He and his wife Olivia are the first directors of the company. Popeye sold a plot of land he owned to the company making a profit of £20,000.**

What is the legal position regarding the profit?

- A Popeye may keep the profit in any event
- B Popeye may keep the profit as long as it is disclosed to the board of directors
- C Popeye may keep the profit as long as it is disclosed to the first shareholders of the company
- D Popeye may not keep the profit under any circumstances **(2 marks)**

**32 For which of the following is an ordinary resolution of the shareholders sufficient authority?**

- A To amend a private company's articles
- B To change a private company's name
- C To give directors authority to issue new shares **(1 mark)**

- 33 Which of the following statements is/are correct?**
- (i) The partners in an ordinary partnership jointly own the firm's assets
  - (ii) The shareholders in a company jointly own the company's assets
- A (i) only
  - B (ii) only
  - C Both (i) and (ii)
  - D Neither (i) nor (ii) **(2 marks)**
- 34 What is the required period for which a private company should keep its accounting records to comply with Companies Act 2006?**
- A 3 years
  - B 6 years
  - C 9 years
  - D 12 years **(2 marks)**
- 35 What majority is necessary to pass a special resolution?**
- A Just 50% of the votes that are cast
  - B A simple majority of the votes that are cast
  - C Just 75% of the votes that are cast
  - D More than 75% of the votes that are cast **(2 marks)**
- 36 Peter holds 100 shares in Ten Ltd. The directors of Ten Ltd have announced that he will be granted one share for every five shares that he holds. The shares will be issued fully paid-up.**
- What is the name given to such an allotment of shares?
- A Rights issue
  - B Bonus issue
  - C Capital issue
  - D Special issue **(2 marks)**
- 37 Which of the following is an indication that a person is self-employed rather than an employee?**
- A The person has the ability to delegate work to others
  - B The person is paid a salary
  - C The person is told how they should perform their job
  - D The person has their work tools provided to them **(2 marks)**

- 38 What is the effect of volenti non fit injuria in the law of tort?**
- A It is a complete defence to an action in negligence
  - B It reduces the amount of damages that a defendant is liable for
  - C It reverses the burden of proof so that the defendant must prove that they were not negligent **(1 mark)**
- 39 A declaration of solvency is required to commence which of the following?**
- A A members' voluntary liquidation
  - B A creditors' voluntary liquidation
  - C A compulsory liquidation
  - D An administration **(2 marks)**
- 40 How many days holiday leave (excluding bank holidays) is an employee entitled to as a minimum?**
- A 20 days
  - B 25 days
  - C 28 days
  - D 30 days **(2 marks)**
- 41 In the context of sources of law, what is a statutory instrument?**
- A A tool used by Parliament in the process of developing an Act
  - B A form of delegated legislation that allows ministerial powers to be exercised
  - C A right granted by the Human Rights Act 1998 to strike out delegated legislation **(1 mark)**
- 42 Which of the following parties has the role of forming a company?**
- A Member
  - B Director
  - C Subscriber
  - D Promoter **(2 marks)**
- 43 Which of the following is the superior source of law?**
- A Obiter dicta of the Supreme Court
  - B Ratio decidendi of the Supreme Court
  - C Obiter dicta of the High Court
  - D Ratio decidendi of the High Court **(1 mark)**

- 44 In the tort of negligence, what is the limit of a defendant's liability for damages?**
- A The full losses incurred by the claimant
  - B The losses that the defendant could reasonably foresee
  - C The amount of losses that the defendant can afford to pay **(1 mark)**
- 45 Which type of company does not have share capital?**
- A An unlimited liability company
  - B A public company
  - C A company limited by guarantee **(1 mark)**

**SECTION B****ALL 5 QUESTIONS ARE COMPULSORY AND MUST BE ANSWERED**

- 1** Adam who operates an accountancy practice, charges £1,000 per year for producing business accounts for tax purposes. Unfortunately he has had some difficulty in recovering his fees from two clients as follows.

Bob, a car mechanic, told Adam that he could only raise cash to pay half of his fees but that he would service Adam's car for the coming year. Adam reluctantly agreed to this proposal.

Dawn, a not very successful musician, also told Adam that she could only pay half the money she owed him as she needed the other half to finance her new recording. Once again Adam agreed to accept the half payment. Dawn's recording subsequently became a major hit and she made £100,000 profit from it.

Adam himself is now in financial difficulty and needs cash to pay his own tax bill.

**Required:**

- (a) Explain whether Adam can require Bob to pay his fees in full. (2 marks)
- (b) Explain the effect of promissory estoppel on Dawn's payment to Adam. (2 marks)
- (c) Explain whether Adam may be able to obtain full payment from Dawn. (2 marks)

**(Total: 6 marks)**

- 2** Chi, Di and Fi formed an ordinary partnership to run an art gallery. Each of them paid £100,000 into the business.

As Fi had no prospect of raising any more money it was agreed between them that her maximum liability for any partnership debts would be fixed at her original contribution of £100,000.

The partnership agreement specifically restricted the scope of the partnership business to the sale of 'paintings, sculptures and other works of art'. In January 20X0 Chi took £10,000 from the partnership's bank drawn on its overdraft facility. She had told the bank that the money was to finance a short-term partnership debt but in fact she used the money to pay for a holiday. In February Di entered into a £25,000 contract on behalf of the partnership to buy some books, which she hoped to sell in the gallery.

**Required:**

- (a) State whether all three partners are liable to repay the overdraft created by Chi. (2 marks)
- (b) State the type of authority Di had to purchase the books. (2 marks)
- (c) State the liability of Fi for the partnership's debts. (2 marks)

**(Total: 6 marks)**

- 3** Nicky was recently disqualified from acting as a company director under the Company Directors Disqualification Act 1986. She decided to continue trading and arranged for her daughter, Caroline, to form a new company. On registration, Caroline was appointed as a director, however, she would receive instructions on what to do from Nicky's personal financial advisor, Bina, who is accustomed to act on Nicky's orders. Bina was not appointed as a director but is identified as the company's managing director on all its official paperwork.

**Required:**

- (a) Explain which of the parties is a de jure director. (2 marks)
- (b) Explain which of the parties is a de facto director. (2 marks)
- (c) Explain which of the parties is a shadow director. (2 marks)

**(Total: 6 marks)**

- 4** Three years ago Flo inherited some money and decided to invest the money in company shares.

At that time she heard that Helter Ltd was badly in need of additional capital and that the directors had decided that the only way to raise the needed money was to offer fully paid up £1 shares to new members at a discount price of 50p. Flo thought the offer was too good to miss and she subscribed and paid for 30,000 new shares on this basis. However, Helter Ltd has since gone into insolvent liquidation, owing a considerable sum of money to its unsecured creditors.

With the remaining money of her investment Flo subscribed for 10,000 shares in Iry Ltd. Although they had a nominal value of £1, she was required to pay a premium of £1 for each share she subscribed for. The shares are currently trading at £2 per share.

**Required:**

- (a) Explain the extent of Flo's liability for Helter Ltd's debts. (2 marks)
- (b) Explain the purpose of a share premium account and whether Flo can reclaim her premium payment from Iry Ltd. (4 marks)

**(Total: 6 marks)**

- 5** Five years ago, Milly and Drew formed a limited company, Mildrew Ltd. They were the company's only directors and shareholders. The company was initially profitable but started making losses in its third year. Drew thought that the business should be wound up at this point but Milly persuaded him that the business should continue. Milly continued to run the company but Drew, although he retained his position as a director, decided to focus his attention on another business venture.

Mildrew Ltd continued to make substantial losses, but Milly produced fake company accounts to hide the company's debts. Eventually the scale of the losses became too large to hide and the company went into liquidation.

**Required:**

- (a) State whether a company must be insolvent for the offence of fraudulent trading to be actionable under the Insolvency Act 1986 and Companies Act 2006. (2 marks)**
- (b) Explain whether Milly and Drew will be liable for either fraudulent trading under s213 Insolvency Act 1986 or wrongful trading under s214 Insolvency Act 1986 and the potential consequences. (4 marks)**

**(Total: 6 marks)**