

ACCA INTERIM ASSESSMENT

Corporate and Business Law

December 2014

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 Which of the following is the prosecutor in a criminal case?**
- A The State
 - B The accused
 - C The victim
- (1 mark)**
- 2 Which of the following is a remedy available under the civil law?**
- A A fine
 - B Imprisonment
 - C Damages
- (1 mark)**
- 3 Which of the following courts only hears civil cases?**
- A The County Court
 - B The Magistrate's Court
 - C The Court of Appeal
 - D The Privy Council
- (2 marks)**
- 4 Which of the following type of dismissal occurs when no notice is given to the employee?**
- A Constructive dismissal
 - B Redundancy
 - C Summary dismissal
 - D Unfair dismissal
- (2 marks)**
- 5 Which of the following describes the standard of proof in a civil law case?**
- A Beyond reasonable doubt
 - B Balance of probability
 - C Beyond all probability
- (1 mark)**
- 6 Which of the following will terminate an offer?**
- A Posting a letter of revocation
 - B A request for information
 - C Death of the offeree
- (1 mark)**

- 7** When a general partnership is terminated, which of the following is paid off first out of funds realised from the partnership assets?
- A Partners' share or partnership profits
 - B Partners' capital contribution
 - C Partnership loans
 - D External debts **(2 marks)**
- 8** Which of the following contracts must be in the form of a deed?
- A A sale of land
 - B A transfer of shares
 - C A consumer credit contract **(1 mark)**
- 9** In relation to contract law, how long will an offer remain open if no time period is set for its expiry?
- A 1 day
 - B 1 month
 - C For a reasonable time **(1 mark)**
- 10** The purpose of an agency relationship is to form a business contract between which of the following parties?
- A Agent and principal
 - B Agent and third party
 - C Principal and third party **(1 mark)**
- 11** Which of the following statements regarding privity of contract is correct?
- A Privity of contract means only parties to a contract may sue on it
 - B Privity of contract is not subject to regulation by statute
 - C There are no exceptions to the rule of privity of contract
 - D Privity of contract is only enforceable on commercial contracts **(2 marks)**
- 12** In the tort of negligence, what is the effect of volenti non fit injuria?
- A The defendant is liable for the claimant's injury unless proved otherwise
 - B The claimant accepted the risk of injury and the defendant is not liable for the claimant's losses
 - C Neither the claimant nor the defendant is responsible for the claimant's injury **(1 mark)**

- 13 Which of the following statements regarding counter-offers is correct?**
- A Counter-offers may be accepted by the original offeror
 - B Counter-offers do not terminate the original offer
 - C A statement that enquires whether alternative terms would be acceptable is a counter-offer
 - D A counter-offer is made by the original offeror to the original offeree **(2 marks)**
- 14 How are express terms incorporated into a contract?**
- A By a decision of the courts
 - B By statute law
 - C By the parties themselves
 - D By what is customary in the particular trade **(2 marks)**
- 15 Which of the following describes the type of contract that an employee has?**
- A A contract of service
 - B A contract for services
 - C A contract of agency **(1 mark)**
- 16 Which of the following is a statement by a judge that is the basis for their decision and is what becomes binding on future judges?**
- A Obiter dicta
 - B Per incuriam
 - C Ratio decidendi **(1 mark)**
- 17 Which of the following is not an essential element of a valid simple contract?**
- A The contract must be in writing
 - B The parties must be in agreement
 - C Each party must provide consideration
 - D Each party must intend legal relations **(2 marks)**
- 18 Which of the following remedies are available to an employee in the event that they are wrongfully dismissed?**
- A Damages
 - B Re-engagement
 - C Re-instatement
 - D Statutory compensation **(2 marks)**

- 19 Which of the following is not a valid method of acceptance of an offer?**
- A The offeree's express words
 - B The offeree's conduct
 - C Silence of the offeree **(1 mark)**
- 20 In respect of audited accounts, to whom does an auditor owe a duty of care not to act negligently?**
- A The shareholders only
 - B The company only
 - C Anyone who relies on the accounts for investment purposes
 - D The company and the shareholders only **(2 marks)**
- 21 In order to qualify for redundancy pay, how long must an employee be continuously employed for?**
- A 1 year
 - B 1.5 years
 - C 2 years
 - D 3 years **(2 marks)**
- 22 In order to form an agency relationship by express agreement, what form should the agreement take?**
- A Oral agreement only
 - B Written agreement only
 - C Either oral or written agreement **(1 mark)**
- 23 The court of first instance for criminal cases is:**
- A Crown Court
 - B Magistrate's Court
 - C High Court **(1 mark)**
- 24 For unfair dismissal purposes, which of the following is a fair reason for dismissal?**
- A Pregnancy
 - B Redundancy
 - C Trade union membership
 - D Lack of capability or qualifications **(2 marks)**

- 25 In relation to the tort of negligence, what is novus actus interveniens?**
- A A decision by the court that reverses the burden of proof
 - B An intervening act that may break the chain of causality
 - C An event that makes the damage too remote so that the defendant is not liable
 - D A defence to a liability in negligence **(2 marks)**
- 26 Which of the following statements regarding implied terms is correct?**
- A Terms may be implied into a contract by statute
 - B The courts do not interfere in contracts by implying terms
 - C Terms implied into contracts by custom may not be overridden by express terms to the contrary **(1 mark)**
- 27 To establish a case of passing off, what must the claimant prove?**
- A The consumer purchased fake goods
 - B The defendant is using the same business model as the claimant
 - C The name of the defendant's business is similar enough to the claimant's to mislead the consumer
 - D There is some similarity between the name of the defendant's business and that of the claimant **(2 marks)**
- 28 Which of the following are questions that are asked to establish whether the defendant owed a duty of care to the claimant?**
- (i) Was the harm obvious to a reasonable person?
 - (ii) Was there a relationship of proximity between the parties?
 - (iii) Is it fair, just and reasonable to impose a duty of care on the defendant?
- A (i) and (ii) only
 - B (i) and (iii)
 - C (ii) and (iii)
 - D (i) only **(2 marks)**
- 29 Which of the following statements concerning a principal ratifying a contract formed by an agent is correct?**
- A The principal need not have existed when the contract was made
 - B The principal need not have had legal capacity when the contract was made
 - C The principal must communicate their ratification of the contract clearly to the third party
 - D At least half of the provisions of the contract must be ratified **(2 marks)**

30 In an emergency situation, a person may need to take control of another party's goods and deal with them appropriately.

What type of agency is this known as?

- A Agency by implied agreement
- B Agency by estoppel
- C Agency by ratification
- D Agency by necessity **(2 marks)**

31 At which point in a contractual arrangement is a representation made?

- A When the offeree submits their acceptance to the offeror
- B During pre-contract negotiations
- C When the offeror submits their offer to the offeree
- D Once both parties have provided consideration under their agreement **(2 marks)**

32 Case law is made up of:

- A Common law only
- B Statute
- C Common law and equity **(1 mark)**

33 Which of the following statements is/are correct?

- (i) Legislation takes precedence over case law
 - (ii) Common law prevails over equity
- A (i) only
 - B (ii) only
 - C Both (i) and (ii)
 - D Neither (i) nor (ii) **(2 marks)**

34 Which of the following is true regarding Limited Liability Partnerships?

- A The partnership is liable for its own debts
- B The partnership does not need to file accounts with the Registrar of Companies
- C One partner may not take part in the day to day running of the partnership
- D Where the partnership cannot pay its own debts, the partners are jointly liable **(2 marks)**

35 Which of the following courts are bound by the Court of Appeal?

- (i) Supreme Court
- (ii) Crown Court
- (iii) High Court
- A All of them
- B (i) and (ii)
- C (i) and (iii)
- D (ii) and (iii)

(2 marks)

36 Which of the following individual is likely to be considered an employee?

- A Daniel – who invoices his employer and is paid gross
- B Sarah – who may delegate her work to others
- C Rina – who is provided with her work tools by her employer
- D Jeremy – who chooses the hours which he works

(2 marks)

37 If an employee has ten years of continuous service with an employer, what is the minimum notice period that they need to give to the employer if they decide to leave?

- A One week
- B Ten days
- C One month
- D Ten weeks

(2 marks)

38 Which of the following is created under the Partnership Act 1890?

- A A general partnership
- B A limited partnership
- C A limited liability partnership

(1 mark)

39 In order to proceed with a claim for unfair dismissal, the employee must show they were dismissed.

Which of the following is not counted as dismissal for unfair dismissal purposes?

- A Employee resigning
- B Constructive dismissal
- C Expiry of a fixed-term contract without renewal
- D Summary dismissal

(2 marks)

- 40 Under the Partnership Act 1890, which of the following events will cause a partnership to be terminated?**
- A Loss of 50% of the partnership's capital
 - B The partnership incurring losses for two consecutive years
 - C Bankruptcy of a partner **(1 mark)**
- 41 In relation to contract law, which of the following describes an offer?**
- A A statement of possible terms
 - B Displaying goods for sale in a supermarket
 - C A verbal promise to be bound on specific terms **(1 mark)**
- 42 Which of the following statements in relation to the presumptions of statutory interpretation is correct?**
- A A statute alters the common law
 - B A statute does not have retrospective effect
 - C A statute binds the Crown
 - D A statute has effect outside the UK **(2 marks)**
- 43 Which court will deal with an appeal from the Magistrates Court on a question of law?**
- A Crown Court
 - B High Court
 - C Court of Appeal
 - D Supreme Court **(1 mark)**
- 44 In the tort of negligence which type of loss is usually not recoverable?**
- A Pure economic loss
 - B Injury
 - C Damage to property **(1 mark)**
- 45 The system adopted by judges of following decisions in previous cases is known as:**
- A Judicial precedent
 - B Judiciary precedent
 - C Judicature precedent **(1 mark)**

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

- 1 Adam is sitting with a group of his friends outside a public house in a harbour. He says that he will give £100 to anyone who can swim across the harbour. Adam puts that amount of money on the table to show the seriousness of his challenge. Ben is not with Adam's group but is sitting at the table next to Adam. He hears the promise but does not say anything. Suddenly a child falls into the water from the other side of the harbour. Ben dives into the water and begins to swim to her rescue. As Ben is approaching the child, Adam shouts out 'Don't think you are going to get my £100, because I am withdrawing my offer'.

Ben nonetheless rescues the child and climbs out on to the other side of the harbour.

Required:

State:

- (a) the legal effect of the first statement made by Adam. (3 marks)
- (b) the legal effect of the statement Adam made to Ben. (2 marks)
- (c) whether Ben can claim the £100 from Adam. (1 marks)

(Total: 6 marks)

- 2** In March 2007, Glimpse Ltd won a contract to install floor-to-ceiling window units in the frontage of a prestigious development of city offices and flats for a price of £55,000. The contract specified that the windows were to be installed by 30 June 2007 at the latest, one week before the official opening ceremony. A penalty of £2,000 was payable for each day's delay. Glimpse Ltd ordered the glass from a specialist glazing company, G-Force Ltd, and handles and fittings from another company, HandlesRUs Ltd, with all supplies to be delivered by 1 June 2014. The glazier was to receive £24,000 and the handle company £4,000.

At the end of April, G-Force Ltd contacted Glimpse Ltd and said the glass would not be delivered on time unless an additional £3,000 were paid, Glimpse Ltd reluctantly agreed, not wishing to risk delay of the whole installation. Glimpse Ltd then contacted HandlesRUs Ltd and asked if the fittings and handles could be delivered a week earlier to allow them to be fitted to the frames at the company's workshops rather than on site, in return for an extra fee of £500.

In the event, both the handles and the glass were delivered on 14 May and Glimpse Ltd finished the work ahead of schedule, a week before the end of June deadline.

Glimpse Ltd then refused to pay the additional sums agreed.

Required:

- (a) State whether G-Force Ltd has any rights to enforce the promise by Glimpse Ltd to pay the additional £3,000. (3 marks)
- (b) State whether HandlesRUs Ltd has any rights to enforce the promise by Glimpse Ltd to pay the additional £500. (3 marks)

(Total: 6 marks)

- 3** Tom had in the past been employed as a technician by a television production company. He decided to work for himself and offered his services to a number of production companies.

The contracts he obtained never lasted for more than 10 days and on one or two occasions he sent a substitute when he was unable to attend personally.

Tom submitted invoices, which were paid in full without deduction of tax. He was registered for VAT and had the responsibility of dealing with his own accounts and chasing slow payers. Tom provided no tools of his own, contributed no money to the cost of productions and the companies which employed him determined the time, place and duration of any assignment.

Required:

- (a) State how the economic reality (multiple test) is used to determine a worker's status. (2 marks)
- (b) Identify whether Tom is an employee or an independent contractor. (4 marks)

(Total: 6 marks)

- 4 Vanessa has recently inherited some money from her father, Neil. She knows that her old friend Dave is looking for investors into his company, DC Ltd and is keen to invest.

She contacts DC Ltd's auditor, Gavin, for information as to the financial performance of DC Ltd. Gavin responds, recommending that she invests in DC Ltd and stating that the company made profits of £500,000 in the last year.

Vanessa buys shares in DC Ltd and then later discovers that Gavin has confused DC Ltd with another client and that the company has actually been making small losses in the last two years.

Required:

- (a) Explain the meaning of special relationship. (3 marks)
- (b) Identify whether Vanessa will be able to recover losses from Gavin. (3 marks)

(Total: 6 marks)

- 5 Michael is a keen plane spotter whose house is near the airport. Unfortunately his neighbour's wall and large tree prevented him from getting a good view of the runway.

He entered into a contract with Sam to build a special 60 feet high observation tower that would enable him to see the runway. It had to be at least 60 feet to give him an unobstructed view of the runway.

When the tower was finished, it was only 50 feet high and, although Michael could see over the wall, the tree still partially obscured his view.

As it stands, the tower cost £25,000. Had Sam built it to the specified height it would have only cost a further £1,000. However, because of its special construction, its height cannot now be increased. The cost of replacing the existing structure with one which would meet the original specification is £35,000.

Required:

- (a) State whether Michael can get an order for specific performance to require Sam to rebuild the tower. (2 marks)
- (b) Explain the extent to which Michael can claim damages against Sam in relation to the building of the tower. (4 marks)

(Total: 6 marks)

