

*Valid from 1 September 2021 to 31 August 2022*

# ACCA

## Corporate and Business Law (LW ENG)

*Exam Kit*



# **ACCA**

## **Applied Skills**

---

**Corporate and Business Law (ENG)**

---

**EXAM KIT**

**British Library Cataloguing-in-Publication Data**

A catalogue record for this book is available from the British Library.

Published by:

Kaplan Publishing UK  
Unit 2 The Business Centre  
Molly Millar's Lane  
Wokingham  
Berkshire  
RG41 2QZ

ISBN: 978-1-78740-887-6

© Kaplan Financial Limited, 2021

**Printed and bound in Great Britain**

The text in this material and any others made available by any Kaplan Group company does not amount to advice on a particular matter and should not be taken as such. No reliance should be placed on the content as the basis for any investment or other decision or in connection with any advice given to third parties. Please consult your appropriate professional adviser as necessary. Kaplan Publishing Limited and all other Kaplan group companies expressly disclaim all liability to any person in respect of any losses or other claims, whether direct, indirect, incidental, consequential or otherwise arising in relation to the use of such materials.

All rights reserved. No part of this examination may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without prior permission from Kaplan Publishing.

***Acknowledgements***

These materials are reviewed by the ACCA examining team. The objective of the review is to ensure that the material properly covers the syllabus and study guide outcomes, used by the examining team in setting the exams, in the appropriate breadth and depth. The review does not ensure that every eventuality, combination or application of examinable topics is addressed by the ACCA Approved Content. Nor does the review comprise a detailed technical check of the content as the Approved Content Provider has its own quality assurance processes in place in this respect.

The past ACCA examination questions are the copyright of the Association of Chartered Certified Accountants. The original answers to the questions from June 1994 onwards were produced by the examiners themselves and have been adapted by Kaplan Publishing.

We are grateful to the Chartered Institute of Management Accountants and the Institute of Chartered Accountants in England and Wales for permission to reproduce past examination questions. The answers have been prepared by Kaplan Publishing.

# CONTENTS

	<i>Page</i>
Index to questions and answers	P.5
Exam technique	P.8
Paper specific information	P.9
Kaplan's recommended revision approach	P.10

## Section

1	Objective test questions	1
2	Multi-task questions	57
3	Answers to objective test questions	97
4	Answers to multi-task questions	117
5	Specimen exam questions	145
6	Specimen exam answers	159



#### **New features in this edition**

In addition to providing a wide ranging bank of practice questions, we have also included in this edition:

- Examples of new-style 'multi-task' questions that will form part of the new examination format.
- Paper specific information and advice on exam technique.
- Our recommended approach to make your revision for this particular subject as effective as possible.

You will find a wealth of other resources to help you with your studies on the following sites:

[www.mykaplan.co.uk](http://www.mykaplan.co.uk) and [www.accaglobal.com/students/](http://www.accaglobal.com/students/)

Quality and accuracy are of the utmost importance to us so if you spot an error in any of our products, please send an email to [mykaplanreporting@kaplan.com](mailto:mykaplanreporting@kaplan.com) with full details.

Our Quality Co-ordinator will work with our technical team to verify the error and take action to ensure it is corrected in future editions.

# INDEX TO QUESTIONS AND ANSWERS

## INTRODUCTION

The style of the Corporate and Business Law exam changed from September 2014.

Accordingly, the old ACCA scenario questions have been adapted to reflect the new style of paper.

These questions have been labelled with an (A) next to them.

## OBJECTIVE TEST QUESTIONS

	<i>Page number</i>	
	<i>Question</i>	<i>Answer</i>
Essential elements of the legal system	1	97
The law of obligations	6	99
Employment law	23	105
The formation and constitution of business organisations	30	108
Capital and the financing of companies	39	110
Management, administration and regulation of companies	45	112
Insolvency law	49	113
Corporate fraudulent and criminal behaviour	52	115

## MULTI-TASK QUESTIONS

### Page number

Question Answer (Adapted)

### The law of obligations

285	Amy and Ben	57	117	(A)
286	Arti	58	118	(A)
287	Amy and Bry	59	118	(A)
288	Bild Ltd	60	119	(A)
289	Ali	61	119	(A)
290	Alvin	62	120	(A)
291	Ari	63	120	(A)
292	Bud	64	121	(A)
293	Abid	65	121	(A)
294	Ann	66	122	(A)
295	Joan & David	67	123	
296	Cromwell Arms	68	123	

### Employment law

297	Fine Ltd	68	123	(A)
298	Eve and Fred	69	124	(A)

### The formation and constitution of business organisations

299	Elaine	70	124	
300	Black Shilling	71	125	
301	Ham, Sam and Tam	72	125	(A)
302	Geo, Ho and Io	72	126	(A)
303	Don	73	126	(A)
304	Doc	74	127	(A)
305	Glad Ltd	75	127	(A)

### Capital and the financing of companies

306	Fan plc	76	128	(A)
307	Judder Ltd	77	129	(A)
308	Fin	77	129	(A)
309	Inheritance	78	130	(A)
310	Ho	79	130	(A)

Page number				
	Question	Answer	(Adapted)	
Management, administration and regulation of companies				
311	Fran, Gill and Harry	80	131	(A)
312	King Ltd	81	131	(A)
313	Clean Ltd	82	132	(A)
314	Goal Ltd	83	132	(A)
315	Do plc	83	133	(A)
316	Kut Ltd	84	133	(A)
Insolvency				
317	Mat, Mary and Norm	85	134	(A)
318	Administration	86	135	
319	Liverton	87	135	
320	Brassick Ltd	87	136	
321	Winston Ltd	88	137	
322	Michael	89	137	
323	Hurst Ltd	90	138	
324	Sami Ltd	90	139	
325	Park Ltd	91	139	
326	Strine Ltd	92	140	
Corporate fraudulent and criminal behaviour				
327	Ken	93	141	(A)
328	Sid and Vic	93	142	(A)
329	Ire Ltd	94	142	(A)
330	Bribery	95	143	
331	Nit	96	143	(A)



# EXAM TECHNIQUE

- Do not skip any of the material in the syllabus.
- Read each question *very* carefully.
- Double-check your answer before committing yourself to it.
- Answer **every** question – if you do not know an answer, you don't lose anything by guessing. Think carefully before you **guess**. The examiner has indicated that many candidates are still leaving blank answers in the real exam.
- If you are answering a multiple-choice question, **eliminate first those answers that you know are wrong**. Then choose the most appropriate answer from those that are left.
- **Don't panic** if you realise you've answered a question incorrectly. Getting one question wrong will not mean the difference between passing and failing

## Computer-based exams – tips

- Do not attempt a CBE until you have **completed all study material** relating to it.
- On the ACCA website there is a CBE demonstration. It is **ESSENTIAL** that you attempt this before your real CBE. You will become familiar with how to move around the CBE screens and the way that questions are formatted, increasing your confidence and speed in the actual exam.
- Be sure you understand how to use the **software** before you start the exam. If in doubt, ask the assessment centre staff to explain it to you.
- Questions are **displayed on the screen** and answers are entered using keyboard and mouse. At the end of the exam, you are given a certificate showing the result you have achieved.

# PAPER SPECIFIC INFORMATION

## THE EXAM

---

### FORMAT OF THE COMPUTER-BASED EXAM

	<i>Number of marks</i>
45 compulsory multiple-choice questions (1 or 2 marks each)	70
5 multi-task questions (6 marks each)	30

Total time allowed: 2 hours

---

- The examinations contain 100% compulsory questions and students must study across the breadth of the syllabus to prepare effectively for the examination
- The examination will be assessed by a two hour computer-based examination. You should refer to the ACCA web site for information regarding the availability of the computer-based examination.

### PASS MARK

The pass mark for all ACCA Qualification examination papers is 50%.

## DETAILED SYLLABUS

The detailed syllabus and study guide written by the ACCA can be found at:

[www.accaglobal.com/students/](http://www.accaglobal.com/students/)

# KAPLAN'S RECOMMENDED REVISION APPROACH

## QUESTION PRACTICE IS THE KEY TO SUCCESS

Success in professional examinations relies upon you acquiring a firm grasp of the required knowledge at the tuition phase. In order to be able to do the questions, knowledge is essential.

However, the difference between success and failure often hinges on your exam technique on the day and making the most of the revision phase of your studies.

The **Kaplan Study Text** is the starting point, designed to provide the underpinning knowledge to tackle all questions. However, in the revision phase, pouring over text books is not the answer.

**Kaplan online progress tests** help you consolidate your knowledge and understanding and are a useful tool to check whether you can remember key topic areas.

**Kaplan Pocket Notes** are designed to help you quickly revise a topic area, however you then need to practice questions. There is a need to progress to full exam standard questions as soon as possible, and to tie your exam technique and technical knowledge together.

**The importance of question practice cannot be over-emphasised.**

The recommended approach below is designed by expert tutors in the field, in conjunction with their knowledge of the examiner.

The approach taken for the fundamental papers is to revise by topic area.

**You need to practice as many questions as possible in the time you have left.**

## OUR AIM

Our aim is to get you to the stage where you can attempt exam standard questions confidently, to time, in a closed book environment, with no supplementary help (i.e. to simulate the real examination experience).

Practising your exam technique on real past examination questions, in timed conditions, is also vitally important for you to assess your progress and identify areas of weakness that may need more attention in the final run up to the examination.

The approach below shows you which questions you should use to build up to coping with exam standard question practice, and references to the sources of information available should you need to revisit a topic area in more detail.

Remember that in the real examination, all you have to do is:

- attempt all questions required by the exam
- only spend the allotted time on each question, and
- get them at least 50% right!

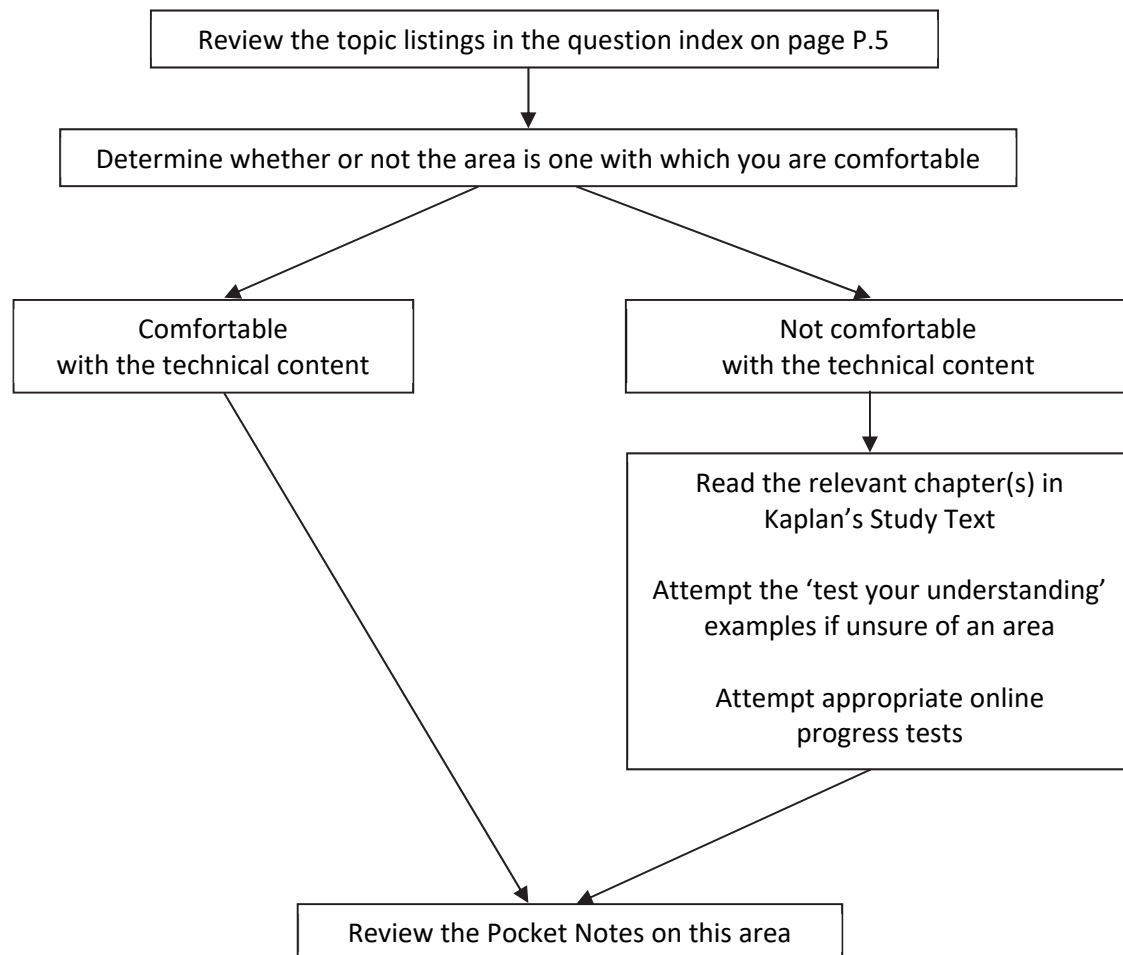
Try and practice this approach on every question you attempt from now to the real exam.

## ACCA SUPPORT

For additional support with your studies please also refer to the ACCA Global website.

# THE KAPLAN CORPORATE AND BUSINESS LAW REVISION PLAN

## Stage 1: Assess areas of strengths and weaknesses



## Stage 2: Practice questions

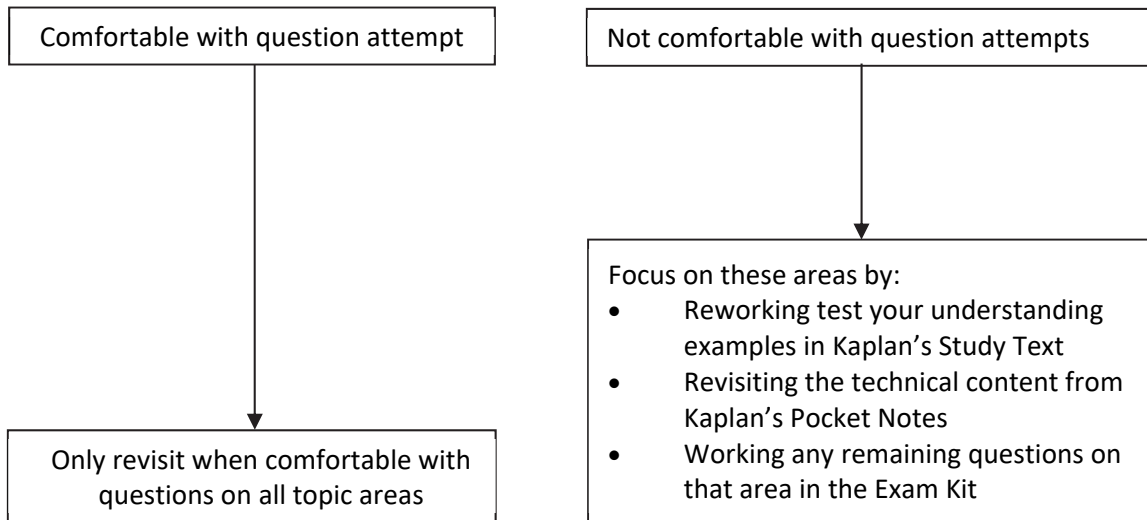
Ensure that you revise all syllabus areas as questions could be asked on anything.

Try to avoid referring to text books and notes and the model answer until you have completed your attempt.

Try to answer the question in the allotted time.

Review your attempt with the model answer. If you got the answer wrong, can you see why? Was the problem a lack of knowledge or a failure to understand the question fully?

Fill in the self-assessment box below and decide on your best course of action.



### Stage 3: Final pre-exam revision

We recommend that you **attempt at least one two hour mock examination** containing a set of previously unseen exam standard questions.

It is important that you get a feel for the breadth of coverage of a real exam without advanced knowledge of the topic areas covered – just as you will expect to see on the real exam day.

Ideally this mock should be sat in timed, closed book, real exam conditions and could be:

- a mock examination offered by your tuition provider, and/or
- the pilot paper in the back of this Exam Kit

## Section 1

# OBJECTIVE TEST QUESTIONS

### ESSENTIAL ELEMENTS OF THE LEGAL SYSTEM

- 1 Which of the following TWO statements regarding 'common law' are NOT correct?**

  - A It is the body of law as made by judges through the determination of cases
  - B It is law created by Parliament
  - C It is the system of law that emerged following the Norman Conquest in 1066
  - D In the event of conflict with equity the common law will prevail **(2 marks)**
- 2 Which of the following is NOT a track to which a civil case can be allocated?**

  - A The small claims track
  - B The fast track
  - C The high value track **(1 mark)**
- 3 In relation to the English Legal System, where did the common law originate from?**

  - A Acts of Parliament
  - B Delegated legislation
  - C Custom **(1 mark)**
- 4 Which of the following would NOT be regarded as persuasive precedent by a judge within the Court of Appeal?**

  - A Decisions of lower courts
  - B Decisions of the Supreme Court
  - C Obiter dicta statements **(1 mark)**
- 5 Which of the following is the name used for the person who commences a civil action?**

  - A Appellant
  - B Plaintiff
  - C Claimant **(1 mark)**

- 6 Which part of a legal judgement establishes the precedent that is to be followed by lower courts?**
- A The ratio decidendi
  - B The facts that are considered important by the judge
  - C The obiter dicta
- (1 mark)**
- 7 Which is the final appeal court in the United Kingdom?**
- A The High Court
  - B The Supreme Court
  - C The Court of Appeal
- (1 mark)**
- 8 Which of the following is NOT a form of delegated legislation?**
- A Statute
  - B Statutory instruments
  - C Orders in Council
- (1 mark)**
- 9 Which of the following statements regarding the Supreme Court is correct?**
- A It is bound by its previous decisions, but it may depart if they are considered to be wrong.
  - B It is always bound by its previous decisions.
  - C It is normally bound by its previous decisions, but may depart when it appears right to do so.
- (1 mark)**
- 10 Which of the following is NOT one of the stages for creating an Act of Parliament?**
- A Third reading
  - B Fourth reading
  - C Committee stage
- (1 mark)**
- 11 What is the standard of proof required in a criminal case?**
- A On the balance of probabilities
  - B The defence establishes a reasonable defence to the allegations
  - C Beyond any doubt
  - D Beyond reasonable doubt
- (2 marks)**

**12 Which of the following statements regarding judicial precedent is correct?**

- A The Court of Appeal is bound by judgements of the Supreme Court.
  - B The Court of Appeal is bound by judgements of the Queen's Bench Division of the High Court.
  - C The Court of Appeal is bound by judgements of the Chancery Division of the High Court.
  - D The Court of Appeal is bound by judgements of the Family Division of the High Court.
- (2 marks)**

**13 Which of the following is NOT a division of the High Court?**

- A The Chancery Division
  - B The Family Division
  - C The Queen's Bench Division
  - D The Supreme Division
- (2 marks)**

**14 What does the term 'private law' refer to?**

- A The body of laws that derive from the deciding of cases
  - B The body of laws that seek to regulate the relationship between individuals
  - C The legal principle that states that a person has the right to privacy
  - D The body of laws that seeks to regulate the relationship between the State and its citizens
- (2 marks)**

**15 In the context of case law which of the following statements is correct?**

- A Distinguishing occurs when a higher court changes the decision reached by a lower court.
  - B Distinguishing occurs when a court changes the law stated in a previous case.
  - C Distinguishing occurs when a court indicates that the facts of a previous case are different.
  - D Distinguishing occurs when a court indicated that the material facts of a previous case are different.
- (2 marks)**

**16 The decisions of Magistrates' courts in criminal cases can be appealed to which TWO of the following courts?**

- A The Crown Court
  - B The High Court
  - C The Court of Appeal
  - D The Supreme Court
- (2 marks)**



**17 Which of the following is regarded as private law?**

- (i) Criminal law
- (ii) Contract law
- A (i) only
- B (ii) only
- C Both (i) and (ii)
- D Neither (i) or (ii)

**(2 marks)**

**18 Identify whether the following statements regarding the common law and equity are true or false.**

	True	False
If the common law and equity conflict, then the common law prevails		
Equity was developed to introduce fairness		

**(2 marks)**

**19 Identify whether the following statements regarding civil law are true or false.**

	True	False
It is the body of laws that does not relate to criminal offences		
It is law created by judges through decision made in cases		

**(2 marks)**

**20 What is the name of the process by which the courts can challenge delegated legislation?**

- A Judges renewal
- B Judicial renewal
- C Judges review
- D Judicial review

**(2 marks)**

**21 When does a Parliamentary Bill become an Act of Parliament?**

- A When it passes through the committee stage
- B On receiving its third reading
- C When passed by both Houses of Parliament
- D On receiving the Royal Assent

**(2 marks)**

**22 What does the 'literal rule' of statutory interpretation mean?**

- A Words should be given their ordinary meaning.
  - B Word meanings can be gathered from their context.
  - C Words should be given the meaning which is likely to give effect to the purpose or reform which the statute intended.
  - D Words should be given their ordinary grammatical meaning unless the meaning is manifestly absurd.
- (2 marks)**

**23 Which of the following courts deal with civil law matters only?**

- A The Crown Court
  - B The magistrates' court
  - C The county court
- (1 mark)**

**24 Which of the following is an English court NORMALLY bound to follow?**

- A An obiter statement of a higher court
  - B A ratio of a lower court
  - C A ratio of a court at the same level
  - D An obiter statement of the Supreme Court
- (2 marks)**

**25 Which of the following courts hear appeals from the Magistrates' court?**

- (1) County court
  - (2) Crown court
  - (3) High Court
- A (1) and (2)
  - B (2) and (3)
  - C (1) and (3)
  - D (1), (2) and (3)
- (2 marks)**

**26 Which TWO of the following are private law actions?**

- (1) Those between individuals
  - (2) Those between business organisations
  - (3) Those between individuals and the state
- A (1) and (2)
  - B (1) and (3)
  - C (2) and (3)
- (1 mark)**

- 27 Which of the following is NOT a source of English law?**
- A Custom
  - B Equity
  - C Public law
- (1 mark)**
- 28 Which of the following is an example of the purposive approach to statutory interpretation?**
- A The mischief rule
  - B The literal rule
  - C The golden rule
- (1 mark)**
- 29 Which of the following correctly applies to the burden of proof in a criminal case?**
- A It must be proved beyond reasonable doubt
  - B It must be proved on the balance of probabilities
  - C It lies with the prosecution
  - D It lies with the defence
- (2 marks)**

## THE LAW OF OBLIGATIONS

- 30 In the context of contract law, what will a display of goods in a shop window generally constitute?**
- A An offer
  - B An invitation to treat
  - C A statement of intention
- (1 mark)**
- 31 When is acceptance not effective?**
- A If through conduct only
  - B If through express words only
  - C Through the offeree's non-communicated intention
- (1 mark)**
- 32 Where the post is a valid means of acceptance, at what point will the offeree have been held to have accepted the offer?**
- A When the letter of acceptance has been written
  - B When the letter of acceptance has been correctly addressed, its postage paid, and posted
  - C When the letter of acceptance is received by the offeror
- (1 mark)**

- 33 Which of the following correctly describes a warranty?**
- A A lesser term in a contract
  - B The most important term in a contract
  - C Not a term of a contract at all
- (1 mark)**
- 34 What will be the effect where the nature of an exclusion clause is misrepresented by the person wishing to rely on it?**
- A It will fail to protect the party attempting to rely on it
  - B The misrepresentation will reduce any award by the court by 50%
  - C It will have no impact where the party has signed a document containing the clause
- (1 mark)**
- 35 Which of the following is NOT a type of term?**
- A Warranty
  - B Condition
  - C Representation
- (1 mark)**
- 36 Which of the following is NOT included in an assessment of damages in contract law?**
- A Remoteness of damage
  - B Mitigation
  - C The sum identified in a penalty clause
- (1 mark)**
- 37 Which of the following is NOT an equitable remedy?**
- A Damages
  - B Specific performance
  - C Injunction
- (1 mark)**
- 38 Breach of which term would NOT entitle the innocent party to repudiate the contract?**
- A A warranty
  - B A condition
  - C An innominate term
- (1 mark)**
- 39 What are the requirements for a valid and binding contract?**
- A Offer and acceptance only
  - B Offer, acceptance and consideration only
  - C Offer, acceptance, consideration and intention to create legal relations
- (1 mark)**

- 40 Which of the following statements about executory consideration is correct?**
- A It is consideration that is yet to be provided
  - B It is consideration that has already been provided
  - C It is consideration that is insufficient in the eyes of the law (1 mark)
- 41 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 (1 mark)
- 42 What does an agreement to carry out an act which the law requires anyway amount to?**
- A Sufficient consideration
  - B Insufficient consideration
  - C Past consideration (1 mark)
- 43 What is an exclusion clause?**
- A It is a clause excluding the rights of persons other than the contracting parties to sue for breach of contract
  - B It is a clause which limits the contractual capacity of one of the parties
  - C It is a contractual clause which limits liability for breach of contract (1 mark)
- 44 What is it called when one party announces their intention NOT to honour their agreement before the performance was due?**
- A Anticipatory breach
  - B Actual breach
  - C Fundamental breach (1 mark)
- 45 Where there has been an anticipatory breach of contract when is the injured party NOT entitled to sue?**
- A After a reasonable time
  - B From the moment the other party indicates that he does not intend to be bound
  - C From the moment the other party actually breaches a contractual condition (1 mark)
- 46 Which of the following types of contract must be in writing?**
- A A partnership agreement
  - B A contract for the sale of goods
  - C An agreement for the transfer of land (1 mark)

- 47 Which of the following is NOT required for revocation of an offer to be effective?**
- A It must be in writing
  - B It must be made before the offer is accepted
  - C It must be made by the offeror or a reliable third party (1 mark)
- 48 Which of the following is correct in relation to social and domestic agreements?**
- A It is presumed the parties did intend to create a legally binding contract
  - B It is presumed that the parties did not intend to create a legally binding contract
  - C It is irrelevant what the intention of the parties is (1 mark)
- 49 Which of the following statements correctly describes express terms?**
- A They are regarded as conditions
  - B They are always in writing
  - C They are terms that the parties have specifically agreed (1 mark)
- 50 What is the principal effect of a counter-offer?**
- A It destroys the original offer and replaces it with a new offer
  - B It creates a binding contract based on the terms of the counter-offer
  - C It creates a binding contract based on the terms of the original offer (1 mark)
- 51 S offers to sell his car to B for £10,000 cash. At what point in time does the contract come into being?**
- A When B accepts the offer
  - B When B pays S the £10,000
  - C When the agreement is written down
  - D When the agreement is signed (2 marks)
- 52** An offer was made by A to sell goods on the 1st April for £2,000. B the offeree telephoned A on the 5th April offering to pay £1,800 for the goods.
- On the 8th April, A offered to sell the goods to C for £1,900, and C accepted this offer on the same day. On the 7th April, B sent a letter to A which was received on the 10th April agreeing to pay the £2,000 asking price for the goods.
- Which one of the following is correct?**
- A There is a contract between A and B created on the 7th April
  - B There is a contract between A and B created on the 10th April
  - C There is a contract between A and C
  - D There is no contract created (2 marks)

- 53** A coat was displayed in a shop window with a price tag attached which read £10. The price tag should have read £100. X who saw this went into the shop and demanded the coat for £10.

**Which one of the following is correct?**

- A As the window display is an offer X can demand the coat at £10.
- B The window display is merely an invitation to treat and the shopkeeper does not have to sell the coat to X.
- C The shopkeeper can refuse to sell the coat for £10, but cannot refuse to sell the coat to X for £100 if X was prepared to pay this sum.
- D The shopkeeper would be bound to sell the coat to any customer prepared to pay this £100. **(2 marks)**

- 54** In which of the following instances will a term NOT be incorporated into a business to business contract?

- A Where a party signs the contract containing the term, whether they have read it or not.
- B Where the term is an exclusion clause under the Unfair Contract Terms Act 1977.
- C Where there is a course of dealing between the parties.
- D Where reasonable notice of the term is given but a contracting party remains unaware of its existence. **(2 marks)**

- 55** Which of the following statements about contract terms is NOT true?

- A A contract term can be implied by a court on the ground of business efficacy.
- B A contract term can be implied by statute.
- C A contract term can be implied by a court on the basis of fairness between the parties.
- D A contract term can be implied by a court on the basis of trade custom. **(2 marks)**

- 56** Which of the following statements is NOT correct in relation to the determining of damages payable on breach of contract?

- A The purpose of providing damages is to compensate the injured party.
- B Quantifying damages is determining the actual amount of the award to be made to the injured party.
- C The remoteness of damage issue is determined by considering the amount of damages the injured party reasonably expects on the basis of the contract breach and damages suffered.
- D An innocent party has a duty to mitigate their loss. **(2 marks)**

**57 What does the doctrine of privity of contract mean?**

- A A contract is not legally binding if it is a private agreement
  - B Only the parties to a contract can enforce it
  - C The terms of a contract are primarily the concern of the parties to it
  - D An ambiguity in the contract will be interpreted against the party trying to avoid liability
- (2 marks)**

**58 In the event of a breach of contract, why is the difference between a condition and a warranty important?**

- A It determines the measure of damages available to the innocent party
  - B It determines the type of damages available to the innocent party
  - C It determines the remedy available to the innocent party
  - D It determines whether or not the court will exercise its discretion to grant specific performance
- (2 marks)**

**59 Robert's wife Kate expressed the wish that Robert, if he survived her, should have the use of her house. After Kate's death her executor agreed to allow Robert to occupy the house (i) because of Kate's wishes and (ii) on the payment by Robert of £24 per year.**

Robert seeks to enforce this agreement and the executor wishes to avoid it in order to sell the house.

**What is the legal position?**

- A Robert can enforce the agreement on the basis of his deceased wife's wishes.
  - B Robert cannot enforce the agreement because the promise to pay is not consideration.
  - C Robert can enforce the agreement because the promise of £24 per year provides consideration for it.
  - D Robert cannot enforce the agreement because £24 per year is not sufficient consideration.
- (2 marks)**

**60 In the context of contract law, which of the following is the correct limitation period for contracts (other than those made by deed)?**

- A 3 years
  - B 6 years
  - C 9 years
  - D 15 years
- (2 marks)**

**61 Paul has just agreed to sell a piece of land to his friend Martin.****Which of the following statements is correct?**

- A The contract is not enforceable as it is an agreement made between friends
  - B For the contract to be enforceable, it can be in any form
  - C For the contract to be enforceable, the terms must be set out in writing
  - D For the contract to be enforceable, Paul and Martin must be over 21 years old
- (2 marks)**



- 62** In the context of contract law, persons without capacity may have limitations on their power to contract.

**Which of the following do/does NOT have capacity to contract?**

- (1) Persons under the age of eighteen years
- (2) Persons of unsound mind
- (3) Persons who are over the age of sixty five years

- A (1) and (2) only
- B (2) and (3) only
- C (2) only
- D (1), (2) and (3)

**(2 marks)**

- 63** Nick verbally agrees to rob his friend's neighbour in return for £500.

**In the context of contract law, which of the following statements is true?**

- A The contract is illegal, and therefore not valid
- B The contract must be in writing for it to be enforceable
- C Contracts made between friends are never legally binding
- D The contract is enforceable if Nick is found not guilty of robbery

**(2 marks)**

- 64** In the context of contract law, identify whether the following statements are true or false.

	True	False
An offer is not effective until has been communicated to the offeree		
An offer can be made to a particular person, to class of persons, or certain instances to the whole world.		

**(2 marks)**

- 65** George sees a television for sale in the window of a shop, with a sign attached stating 'LIMITED OFFER PRICE £50'

**This is an example of which of the following?**

- A An invitation to treat
- B A valid offer
- C A mere puff or boast
- D A mere statement of selling price

**(2 marks)**

- 66 Bobby sees a diamond ring in the display cabinet of a local jewellery shop, with a price tag of £25. When Bobby tried to buy the ring, the shop assistant informed him this was an error and the correct price is £2,500.

**Which of the following statements is correct?**

- A There is a binding contract for the ring at a price of £25
- B There is a binding contract for the ring at a price of £25,000
- C There is no contract since the ring on display is an invitation to treat
- D There is no contract because an honest mistake has been made **(2 marks)**

- 67 In contract law, once an offer has been terminated, it cannot be accepted.

**Which of the following does NOT terminate an offer?**

- A A request for further information
- B Revocation by the offeror
- C Lapse of reasonable time
- D Rejection by the offeree **(2 marks)**

- 68 In the context of contract law, identify whether the following statements are true or false.

	True	False
An offer is terminated by rejection		
An offer can be terminated after acceptance		

**(2 marks)**

- 69 In the context of contract law, an offer is terminated by revocation.

**Identify whether the following statements are true or false.**

	True	False
Revocation must be communicated to the offeree		
Revocation can be communicated by ANY third party		

**(2 marks)**

- 70 In the context of contract law, which one of the following statements is NOT correct?

- A Acceptance must be unqualified and unconditional
- B Acceptance can be oral, written or by conduct
- C As a general principle, acceptance is not effective until it is communicated
- D Acceptance can be terminated by revocation **(2 marks)**

**71** The postal rule is an exception to the principle that acceptance must be communicated.

**Which of the following is/are requirements for the postal rule to apply?**

- (1) The letter must be received by the offeror
- (2) The letter must be properly stamped, addressed and posted
- (3) Accepting by post is a reasonable method of communication

- A (1) and (2) only
- B (2) and (3) only
- C (2) only
- D (1), (2) and (3)

**(2 marks)**

**72** Stephen posted a letter of acceptance to Martin on 3rd December. On the 5th December Martin emailed Stephen to withdraw the offer. On the 6th December Martin received Stephen's letter of acceptance.

**Which of the following statements best describes this situation?**

- A There is NO contract. Martin has successfully revoked his offer by email prior to acceptance
- B There is NO contract. Acceptance in writing is not a valid form of acceptance
- C There is a contract on 3rd December
- D There is a contract on 6th December

**(2 marks)**

**73** All simple contracts must be supported by consideration from each party.

**Identify whether the following statements are true or false.**

	True	False
Consideration must be sufficient		
Consideration must be adequate		

**(2 marks)**

**74** As a general rule, merely performing an existing legal duty is not sufficient consideration in contract law.

**Which of the following is/are EXCEPTIONS to this rule?**

- (1) Where the consideration offered goes above and beyond existing legal duties.
- (2) Where performing existing duties confers a benefit of a practical nature on the other party.
- (3) Where the doctrine of promissory estoppel applies.

- A (1) and (2) only
- B (1) and (3) only
- C (1) only
- D (1), (2) and (3)

**(2 marks)**

- 75** In contract law, the 'part-payment problem' refers to the general rule that payment of a smaller sum does not discharge a debt of a greater amount.

**Which of the following is NOT an exception to this rule?**

- A Where payment is made by a third party
- B Where there is accord and satisfaction
- C Where the equitable doctrine of promissory estoppel applies
- D Where both parties agree to a lower sum in full and final settlement **(2 marks)**

- 76** According to common law, an **EXCLUSION CLAUSE** can be incorporated into a contract in which of the following ways?

- (1) By signature of the contract.
- (2) By way of a notice.
- (3) By way of previous dealings

- A (1) and (2) only
- B (1) and (3) only
- C (1) only
- D (1), (2) and (3) **(2 marks)**

- 77** In the context of contract law, which one of the following statements is NOT true?

- A A condition is an important term going to the root of the contract
- B Breach of a condition can result in damages, or discharge, or both
- C A warranty is less important term, merely incidental to main purpose of the contract
- D Breach of a warranty can result in damages, or discharge, or both **(2 marks)**

- 78** John verbally agreed to sell his car to his brother for £3,000. Subsequently John changed his mind and decided to keep the car.

**Which of the following statements is true?**

- A John can be sued for breach of contract
- B There is no binding contract because the agreement was only verbal
- C There is no binding contract because this is an example of a domestic or social agreements
- D There is no binding contract because there is no valid consideration. **(2 marks)**

- 79** In contract law, an exclusion clause is a term that seeks to exclude or limit a party's liability for breach of contract

**Which of the following statements is correct?**

- A The clause must meet the common law rules only
- B The clause must meet the statutory rules only
- C The clause must meet both the common law rules and the statutory rules **(1 mark)**

- 80** Adam has a contract with Colin. Four weeks prior to the agreed completion date, Colin telephone's Adam out of courtesy to say he has double-booked and will be unable to carry out the work as agreed.

**Which of the following statements is true?**

- A Colin has committed an actual breach of contract
- B Colin has committed an express anticipatory breach of contract
- C Colin has committed an implied anticipatory breach of contract
- D Colin has not committed a breach of contract (2 marks)

- 81** In the context of contract law, which of the following is a common law remedy for breach of contract?

- A Damages
- B Specific performance
- C Injunction
- D Rescission (2 marks)

- 82** A judge orders a defendant to perform their contractual obligations as agreed.

**In the context of contract law, which of the following is this example of?**

- A Damages
- B Rescission of contract
- C Injunction
- D Specific performance (2 marks)

- 83** A contract contains a term which states a fixed sum is payable in the event of breach. The sum is a genuine pre-estimate of the expected loss.

**Which of the following is this an example of?**

- A Liquidated damages
- B Penalty clause
- C Unliquidated damages
- D Equitable remedy (2 marks)

- 84** Paul contracts with Green Ltd to landscape his garden for £1,500. The nearest alternative quote for the work was £2,200 from Eden Ltd. Before the due date for performance, Green Ltd contact Paul to say they can no longer do the work.

**Which of the following remedies can Paul claim for this breach of contract?**

- (1) Specific performance.
  - (2) Financial compensation of £700.
- A (1) only
  - B (2) only
  - C Both (1) and (2)
  - D Neither (1) or (2) (2 marks)

- 85** Tabitha cleaned Zoe's house for a week while she was away and then demanded payment on Zoe's return.

**Which of the following is correct?**

- A Zoe does not have to pay Tabitha anything
- B Zoe should pay Tabitha the going rate for a cleaner
- C Zoe should at least pay Tabitha £1 for the services
- D A contract exists and Tabitha can sue Zoe for damages

**(2 marks)**

- 86** Identify whether in relation to damages, the following statements are true or false.

	True	False
A notional deduction will not be made to reflect taxation.		
The claimant must take reasonable steps to mitigate their loss.		

**(2 marks)**

- 87** Tan writes to Yun stating that he will sell his car to him for £10,000. At the same time, Yun writes to Tan stating that he will buy his car for £10,000.

**Which of the following TWO statements apply to this situation?**

- A There is a binding agreement due to the postal rule
- B There is a collateral contract
- C Tan's letter to Yun constitutes an offer
- D There is neither an agreement nor a contract

**(2 marks)**

- 88** Which of the following statements as regards an acceptance of an offer 'subject to contract' is true?

- A It binds the offeror
- B It binds neither party
- C It binds both parties

**(1 mark)**

- 89** Jo promises to pay a reward for the return of her lost phone. Mia finds the phone and returns it to Jo.

**Which of the following types of consideration has Mia provided?**

- A Executed consideration
- B Executory consideration
- C Past consideration
- D Insufficient consideration

**(2 marks)**

- 90 Which of the following describes a pre-contractual statement which does NOT form a term of a contract but induces the contract?**
- A A condition
  - B A warranty
  - C A representation
  - D An innominate term
- (2 marks)**
- 91 A breach of a contractual warranty enables the injured party to do which of the following?**
- A To sue for damages only
  - B To sue for damages or terminate the contract
  - C To sue for damages and terminate the contract
  - D To terminate the contract only
- (2 marks)**
- 92 Which of the following actions is open to a party who has only partly performed work under a contract?**
- A Quantum meruit
  - B Action for the price
  - C Damages
  - D Restitution
- (2 marks)**
- 93 Where a business includes a term in a contract which excludes liability for death and personal injuries through negligence, which of the following states the effect of the term?**
- A It is invalid
  - B It is invalid unless it is reasonable in the circumstances of the case
  - C It is valid only if specifically brought to the attention of the other party
  - D It is valid if it is clearly included in the contract terms
- (2 marks)**
- 94 Which of the following TWO transactions would fall outside the scope of The Consumer Rights Act 2015?**
- A A purchase of a washing machine from a department store which offers extended warranty
  - B A purchase of a second hand ring from a jewellery shop
  - C A free “app”
  - D A purchase of a unused toaster from a private seller at a car boot sale
- (2 marks)**

- 95** Hannah buys a new phone from a retailer. After four months she notices that the battery is not performing properly as its not retaining its charge for very long.
- Which of the following is not a remedy available under the Consumer Rights Act 2015?**
- A The right to have the item repaired
  - B The right to have the item replaced
  - C An immediate refund
  - D A price reduction following an unsuccessful attempt at repair
- (2 marks)**
- 96** Which of the following is NOT a type of loss usually recoverable under the tort of negligence?
- A Injury
  - B Pure economic loss
  - C Damage to property
- (1 mark)**
- 97** What is pure economic loss?
- A Financial loss that is caused by physical injury
  - B Financial loss that is not associated with physical injury or property damage
  - C Financial loss that is caused by damage to property
- (1 mark)**
- 98** Which of the following correctly describes contributory negligence?
- A It is a partial defence
  - B It is a complete defence
  - C It is not a defence at all
- (1 mark)**
- 99** Which of the following is NOT a situation where the courts have established that a duty of care exists?
- A Motorists owe a duty of care to pedestrians
  - B Manufacturers of products owe a duty of care to the ultimate users of those products
  - C An auditor of a company's accounts owes a duty of care to anyone who might read his report based on those accounts
- (1 mark)**
- 100** Which of the following does NOT need to be shown by the claimant in order to succeed in an action for negligence?
- A That the defendant owed him a duty of care
  - B That the defendant was in breach of a duty of care
  - C That the claimant suffered injury, damage or loss as a result of a breach of a duty of care
  - D That the damage was not too remote
- (2 marks)**



- 101 Which of the following is NOT considered in determining whether a duty of care exists?**
- A Whether it is fair that the law should impose a duty on the defendant
  - B Whether the defendant intended to cause injury to the claimant
  - C Whether it was reasonably foreseeable that the claimant might suffer damage as a result of the defendant's actions
  - D Whether there is sufficient proximity between the parties (2 marks)
- 102 While taking driving lessons John drove negligently and injured his instructor. What will John's duty of care be?**
- A The same as that owed by every driver
  - B That of any unqualified driver
  - C Assessed on the basis of John's specific experience and skill
  - D That which might reasonably be expected of a similarly inexperienced driver (2 marks)
- 103 In negligence, to prove that damage arose from a breach of duty which of the following must be shown in addition to showing that the breach caused the damage?**
- A The type of injury was reasonably foreseeable
  - B The extent of injury was reasonably foreseeable
  - C The particular injury was reasonably foreseeable
  - D Both the extent and type of injury was reasonably foreseeable (2 marks)
- 104 Which of the following does not need to be shown in an action for the tort of negligence?**
- A That a duty of care was owed to the claimant by the defendant
  - B That there was breach of that duty of care
  - C That there was a contractual relationship between the parties
  - D That injury or damage was caused by the failure to exercise reasonable care (2 marks)
- 105 In relation to establishing a claim of negligence, which one of the following is NOT correct?**
- A There must be sufficient proximity between the wrongdoer and the injured party.
  - B The standard of care required is that expected by the reasonable person.
  - C The same level of care is owed both to adults and children.
  - D The level of care to be shown varies with the level of seriousness of the likely consequences of breach of duty. (2 marks)

**106 Which of the following statements in relation to professional negligence is correct?**

- A A professional adviser can be liable to both the client who employs them and any other parties who they know will rely on information provided.
- B A professional adviser can be liable to anyone who relies on information they provide.
- C A professional adviser will be liable in negligence but not contract for any negligent advice provided.
- D A professional adviser cannot be liable where the only form of damage resulting from negligent advice given is financial loss. **(2 marks)**

**107 When determining whether a breach of duty has taken place, the courts will take into account a number of factors.****Which of the following is NOT a relevant factor?**

- A The seriousness of the injury
- B The ease with which the damage sustained can be financially assessed
- C The likelihood of injury
- D The cost of precautions **(2 marks)**

**108 In respect of audited accounts, to whom does an auditor owe a duty of care NOT to act negligently?**

- A The company only
- B The shareholders only
- C All stakeholders
- D Anyone who purchases more shares in the company as a result of the accounts **(2 marks)**

**109 Trina, a trainee accountant, was approached by John, the husband of Trina's colleague, Julie, at an office party. John asked her for some professional advice and flattered that he had asked her, Trina gave some advice. It later turned out her advice was flawed.****Is Trina liable of the resulting loss suffered by John?**

- A Yes because she knows him and is responsible for the advice which she gives
- B Yes because she owes him a duty of care for which the standard is that of reasonable qualified accountant
- C No because she is only a trainee
- D No because the advice was not given in a professional context **(2 marks)**

**110 Which of the following statement/s are true in relation to the defence of contributory negligence?**

- (1) The defendant must show that the claimant's conduct contributed to the incident that caused the damage he suffered.
  - (2) The defendant must show that the claimant's conduct contributed to the damage which he suffered.
- A (1) only  
B (2) only  
C Both (1) and (2)  
D Neither (1) or (2) **(2 marks)**

**111 Which of the following is the consequence when a patient signs a medical consent form before an operation?**

- A The patient gives up any right of action for any injury suffered  
B Any action for any injury suffered during the operation is limited to negligence  
C The level of any potential payment for any injury suffered is reduced **(1 mark)**

**112** Su had just passed her driving test when she negligently drove into a pedestrian.

**What standard of care will Su be judged by?**

- A The objective standard of a newly qualified driver, lack of experience will be taken into account  
B The objective standard of a competent driver, lack of experience will not be taken into account  
C The subjective standard of actual ability **(1 mark)**

**113 Which of the following are owed a duty of care by auditors when preparing a company's audit report?**

- A A potential investor with no current holding  
B An existing shareholder looking to increase their holding  
C A company looking to make a takeover bid for the company  
D The company and the existing shareholders in the company as a body **(2 marks)**

**114 In relation to the tort of negligence, which TWO of the following criteria are required to establish the existence of a duty of care?**

- A The claimant suffered a financial loss  
B The harm suffered was reasonably foreseeable  
C The relationship of proximity existed between the parties  
D The claimant did not consent to cause the injury suffered **(2 marks)**

- 115 In relation to defences of the tort of negligence, which of the following is the consequence of a finding of volenti non fit injuria?**
- A It removes the requirement to pay damages
  - B It reverses the burden of proof as to who can claim damages
  - C It increases the level of damages
  - D It decreases the level of damages
- (2 marks)**

## **EMPLOYMENT LAW**

- 116 Which of the following does NOT constitute a duty owed by an employee towards their employer under the common law?**
- A A duty not to misuse confidential information
  - B A duty to provide faithful service
  - C A duty to obey all orders given to him by his employer
- (1 mark)**
- 117 Daniel has been working for Three Sixty Ltd for 18 months but his employment contract does NOT specify a notice period in the event of termination.**
- What is the minimum period of notice to which he is entitled under the Employment Rights Act 1996?**
- A At least 5 days
  - B At least 1 week
  - C At least 28 days
  - D At least 1 month
- (2 marks)**
- 118 Which of the following is NOT valid for the dismissal of an employee?**
- A Dishonesty
  - B Wilful disobedience of a lawful order
  - C Membership of a trade union
- (1 mark)**
- 119 Where can a claim for wrongful dismissal be brought?**
- A The Employment Tribunal only
  - B The County Court only
  - C The County Court, the High Court, the Employment Tribunal
- (1 mark)**
- 120 What type of contract does an employee have?**
- A A contract for service
  - B A contract of service
  - C A contract of services
- (1 mark)**

**121 Breach of contract claims must normally be taken to an Employment Tribunal within what time period?**

- A 3 weeks of the effective date of termination
- B 3 months of the effective date of termination
- C 6 months of the effective date of termination (1 mark)

**122 When does a summary dismissal occur?**

- A The parties agree to end the contract immediately
- B The employer terminates the contract with notice but no investigation
- C The employer terminates the contract without notice (1 mark)

**123 What is the minimum period of notice that an employee is entitled to after 12 years' service?**

- A 6 weeks
- B 9 weeks
- C 12 weeks (1 mark)

**124 Which of the following is correct in relation to where a constructive dismissal has been alleged?**

- A It is unnecessary to show that the employer intended to repudiate the contract
- B It is necessary to show that the employer had a history of forcing employees out of their jobs
- C It is necessary to show that the employer intended to repudiate the contract (1 mark)

**125 Which of the following is NOT a qualifying condition for unfair dismissal protection?**

- A The claimant must be an employee
- B The claimant must have been provided with a letter stating the reason for the dismissal
- C The claimant must have been dismissed (1 mark)

**126** Anne works for E plc under a 4-year fixed-term contract of employment. At the end of the 4 years, E plc fails to renew the contract because Anne is pregnant.

**In relation to the above, Identify whether the following statements are true or false.**

	True	False
Anne will succeed in an action against E plc for wrongful dismissal		
Anne will succeed in an action against E plc for unfair dismissal		

(2 marks)

**127 Identify whether the following statements are true or false.**

	True	False
An employer has an implied duty to behave reasonably and responsibly towards employees		
An employer has an implied duty to provide a reference		

**(2 marks)**

**128 When is an employee entitled to the principal statement of the written statement of employment particulars?**

- A Immediately on commencing employment
- B Within one month of commencing employment
- C Within three months of commencing employment
- D After completing his trial period

**(2 marks)**

**129 Which of the following statements in relation to unfair dismissal is NOT true?**

- A It is automatically unfair to dismiss an employee for trade union activity
- B It is automatically unfair to dismiss an employee who refuses to obey a reasonable instruction
- C It is automatically unfair to dismiss an employee who becomes pregnant
- D It is automatically unfair to dismiss an employee who complains on health and safety

**(2 marks)**

**130 Which of the following statements is NOT true about wrongful dismissal?**

- A It is a breach of contract
- B It can be heard in both civil courts and employment tribunals
- C It is a statutory right
- D Liability is limited to the net pay for the maximum contractual-statutory notice period

**(2 marks)**

**131 The courts can use a number of tests to determine if a person is employed or self-employed.**

**Which of the following is NOT one of the tests used to determine employment status?**

- A The integration test
- B The economic reality test (or multiple test)
- C The factual test
- D The control test

**(2 marks)**

- 132** The distinction in status between employed and self-employed has a number of important consequences.

**Which of the following statements is/are true?**

- (1) Certain state benefits (e.g. statutory maternity pay) are only available to employees
- (2) An employee receives their pay gross (i.e. without deduction of income tax)
- (3) An employee receives statutory protection against unfair dismissal

- A (1) and (2) only
- B (1) and (3) only
- C (1) only
- D (1), (2) and (3)

**(2 marks)**

- 133** An employee has been informed by their employer that they are legally obliged to obey any lawful and reasonable orders.

**Which of the following statements is true?**

- A This is an example of a contractual term implied by common law
- B This is an example of a contractual term implied by statute
- C This is most likely to be an express contract term
- D The employer is incorrect, there is no legal obligation for an employee to obey lawful and reasonable orders

**(2 marks)**

- 134** Tom has been continuously employed by XYZ Ltd for 6 months.

**Which of the following are available to Tom according to the Employment Rights Act 1996?**

- (1) Wrongful dismissal
- (2) A written statement of employment particulars from his employer
- (3) Redundancy pay

- A (1) and (2) only
- B (1) and (3) only
- C (1) only
- D (1), (2) and (3)

**(2 marks)**

- 135** An employee resigns due the employer committing a serious breach of their employment contract.

**Which of the following remedies is open to the employee?**

- A Redundancy pay
- B No remedy is available to an employee who resigns
- C Constructive dismissal
- D Statutory sick pay

**(2 marks)**

**136 Which of the following is/are inadmissible reasons (automatically unfair) for dismissal?**

- (1) Pregnancy
- (2) Being convicted of a criminal offence
- (3) Whistleblowing

- A (1) and (2) only
- B (1) and (3) only
- C (1) only
- D (1), (2) and (3)

**(2 marks)**

**137** Mark has been continuously employed by Stone Ltd for 18 months. He is dismissed, with notice, by his employer for requesting paid holiday leave.

**Which of the following statements is true?**

- A The reason for dismissal is automatically unfair, so Mark can bring action for unfair dismissal regardless of his length of employment
- B Mark cannot bring an action for unfair dismissal since he has not been in continuous employment for more than 2 years
- C Mark can claim statutory redundancy pay
- D Mark can claim constructive dismissal

**(2 marks)**

**138 In the context of employment law, which of the following statements is true?**

- A Terms can only be implied into employment contracts by judges under Common Law
- B Employees must obey ALL orders given by their employer
- C Employees must act with reasonable skill and care in the performance of their duties
- D Express contract terms always override implied contract terms

**(2 marks)**

**139 In the context of employment law, which of the following is NOT a remedy for unfair dismissal?**

- A Re-instatement
- B Re-engagement
- C Monetary compensation
- D A favourable employment reference

**(2 marks)**



**140** In the context of employment law, there are circumstances where dismissal without notice is NOT 'wrongful'.

**In which of the following circumstances does this apply?**

- (1) Both parties have mutually agreed to terminate the contract without notice
- (2) The employee has received payment in lieu of notice
- (3) The employee has committed a serious breach of contract

- A (1) and (2) only
- B (2) and (3) only
- C (3) only
- D (1), (2) and (3)

**(2 marks)**

**141** Stephen's contracted working hours were 7am – 3pm. When his employer attempted to force him to work night shifts instead, Stephen refused to do so and immediately resigned.

**Which of the following is this an example of?**

- A Unfair dismissal
- B Wrongful dismissal
- C Constructive dismissal
- D Redundancy

**(2 marks)**

**142** In the context of employment law, which of the following are required for an employee to bring action for unfair dismissal?

- (1) Employee must be continuously employed for 2 years
- (2) Employee must serve a grievance notice on the employer
- (3) Employee must bring a claim to an employment tribunal within 3 months of dismissal

- A (1) and (2) only
- B (2) and (3) only
- C (1) only
- D (1), (2) and (3)

**(2 marks)**

**143** In the context of employment law, which of the following statements regarding wrongful dismissal is correct?

- A Employee is dismissed without proper notice
- B Employee resigns due the employer committing a serious breach of contract
- C Employee is dismissed for unjustifiable reasons
- D Employee is dismissed on the grounds of their religion

**(2 marks)**

- 144** Terms are implied into employment contracts under common law (i.e. by judges), and statute.

**Which of the following is NOT a term implied by common law?**

- A Employers have a duty to provide a reference
- B Employers have a duty to provide a safe system of work
- C Employees have a duty to give honest and faithful service
- D Employees have a duty to obey lawful and reasonable orders **(2 marks)**

- 145** Terms are implied into employment contracts under common law (i.e. by judges), and statute.

**Which of the following is NOT a term implied by statute?**

- A Employee has a right to a minimum level of pay
- B Employee has a right not to be unfairly dismissed
- C Employee has a right to four weeks paid leave a year
- D Employee has a right to be indemnified for any necessary expenses **(2 marks)**

- 146** Which of the following statements about contracts of employment is true?

- A They can be made either orally or in writing
- B They must be made in writing
- C They must be evidenced in writing **(1 mark)**

- 147** Which of the following involves a summary dismissal in relation to a contract of employment?

- A Both parties agree to end the contract immediately without notice
- B The employee breaks the contract without notice
- C The employer terminates the contract without notice **(1 mark)**

- 148** Statutory redundancy payment is calculated on the basis of which of the following?

- A Length of service and pay only
- B Age and length of service only
- C Age, length of service and pay **(1 mark)**

- 149** In a potential redundancy situation, an employee may lose the right to payment if they reject an offer of alternative employment within the business.

**Which of the following will allow the employee to reject the employment offered and claim redundancy?**

- A The alternative was suitable but the employee reasonably felt that it was not of the same status.
- B The alternative was suitable but the employee refused to consider it.
- C The alternative was suitable but the employee's grounds for refusing to accept it were unreasonable. **(1 mark)**

**150 Which TWO of the following are reasons for dismissal which would be justified as fair?**

- A Capability or qualifications of the employee
- B Legal prohibitions relating to the employee
- C Refusal of the employee to join a trade union
- D Taking part in unofficial industrial action

**(2 marks)**

**151 Which type of contract does an employee have?**

- A A contract for service
- B A contract of service
- C A contract for services
- D A contract of services

**(2 marks)**

**152 Which is the correct minimum period of notice an employee is entitled to after five years' service?**

- A One calendar month
- B Five weeks
- C Ten weeks
- D Five calendar months

**(2 marks)**

## **THE FORMATION AND CONSTITUTION OF BUSINESS ORGANISATIONS**

**153 Which of the following must a public company have in order to trade?**

- A It must be listed on the London Stock Exchange
- B It must have been issued with a certificate of incorporation
- C It must have been issued with a certificate of Incorporation and a trading certificate

**(1 mark)**

**154 What type of resolution is required to alter a company's name?**

- A Ordinary resolution
- B Special resolution
- C Ordinary resolution with special notice

**(1 mark)**

**155 Which of the following must a public company limited by shares have?**

- A At least two directors and one shareholder
- B At least one director, one company secretary and two shareholders
- C At least two directors, one company secretary and one shareholder

**(1 mark)**

- 156 Who does the articles of association of a company form a contract between?**
- A The shareholders and the directors in all respects
  - B The shareholders and the company in all respects
  - C The shareholders and the company in respect of shareholder rights only (1 mark)
- 157 Which of the following does NOT need to be submitted when registering a private company limited by shares?**
- A An application for registration
  - B A statement of guarantee
  - C A statement of compliance (1 mark)
- 158 Which of the following is NOT an example of a business organisation?**
- A A sole trader
  - B An employee
  - C A limited company (1 mark)
- 159 Which of the following is NOT a feature of a general partnership?**
- A The partners have unlimited liability
  - B The partners have joint and severable liability
  - C Only up to 20 partners are allowed (1 mark)
- 160 Which of the following is NOT a feature of a limited company?**
- A Directors are always immune from criminal prosecution
  - B The shareholders have limited liability
  - C The company has a separate legal personality (1 mark)
- 161 Who is the person on whose behalf an agent acts?**
- A Promoter
  - B Preparer
  - C Principal (1 mark)
- 162 Which of the following is an alternative name for apparent authority?**
- A Ostensible authority
  - B Express authority
  - C Usual authority (1 mark)

**163** Karishma owns a newsagent, runs it as the manager and employs Tessa as part-time help during the week. Karishma is fully liable for the business' debts.

**What type of business does Karishma own?**

- A A partnership
- B A company limited by guarantee
- C A sole trader
- D A company limited by shares (2 marks)

**164** What is the required nominal value of a public limited company's allotted share capital without which it cannot commence business?

- A £12,500
- B £25,000
- C £50,000 (1 mark)

**165** Within what period of time after the year end must a private company file its accounts with the Registrar?

- A Three months
- B Six months
- C Nine months (1 mark)

**166** To what extent is a member of a company limited by guarantee personally liable to contribute towards the company's debts?

- A He is liable to contribute towards all the company's debts at any time
- B He is liable for all the company's debts on a winding up only
- C His liability to contribute is limited to the amount he agreed to upon a winding up (1 mark)

**167** Which of the following is required to establish a general/ordinary partnership?

- A The partners obtain permission through Companies Act 2006
- B The partners obtain permission from Companies House
- C The partners simply agree to form the partnership (1 mark)

**168** Irene entered into a pre-incorporation contract on behalf of Cosmo Ltd.

**Which one of the following options correctly identifies the person who may enforce the contract and against whom it is enforceable?**

- A By and against the company only
- B By and against Irene only
- C By the company and against Irene (1 mark)

**169 Which of the following is NOT an example of how an agency relationship can come into existence?**

- A By express appointment
- B By ratification
- C Through an act of necessity
- D Through an act of a third party

**(2 marks)**

**170** P delivers exclusive handbags to A, her agent, with instructions that they are NOT to be sold for less than £5,000 each. A sells a handbag to B for £5,000. B, believing that she has obtained a bargain, gives A a gift of £200.

**What duty, if any, has A breached?**

- A The duty to avoid a secret profit
- B The duty to act reasonably
- C The duty not to harm P's interests
- D No duty

**(2 marks)**

**171 The directors of a company are considering altering the company's Articles of Association. Who must the alteration 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)**

**172 Which of the following statements is/are correct?**

	True	False
The partners in an ordinary partnership jointly own the firm's assets		
The shareholders in a company jointly own the company's assets		

**(2 marks)**

**173** The Articles of Association of ABC Ltd provide that all disputes between ABC Ltd and its directors must be referred to arbitration. Del is a director of ABC Ltd and is in dispute with the company about late payment of his director's fees.

**Which of the following is/are correct?**

- (i) Del is obliged by the Articles of Association to refer the dispute to arbitration whether or not he is a shareholder.
  - (ii) Del is obliged by the Articles of Association to refer the dispute to arbitration only if he is a shareholder.
- A (i) only
  - B (ii) only
  - C Both (i) and (ii)
  - D Neither (i) nor (ii)

**(2 marks)**

- 174** Immediately prior to the incorporation of Products Ltd, Roberts, one of its promoters, bought property in his own name from Suppliers Ltd. He later sold the property to Products Ltd at a large profit without disclosure.

**To whom is Roberts liable in relation to this secret profit?**

- A Suppliers Ltd
  - B Products Ltd
  - C The promoters of Products Ltd
  - D The shareholders of Products Ltd
- (2 marks)**

- 175** Which of the following must sign the Memorandum of Association of a company?

- A The subscribers and all the directors
  - B The subscribers and at least one of the directors
  - C The subscribers and the company secretary
  - D The subscribers only
- (2 marks)**

- 176** Popeye is the promoter of Spinach Ltd. He and his wife Olive 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)**

- 177** Which of the following are NOT bound to one another by the articles of association?

- A The company to third parties
  - B Members to the company
  - C The company to members
- (1 mark)**

- 178** In company law, what is meant by the term 'veil of incorporation'?

- A A company is a separate legal entity to its shareholders and directors.
  - B A company has perpetual succession.
  - C A company pays corporation tax
  - D A company owns its own property
- (2 marks)**

**179** A company is a separate legal entity to its shareholders and directors.

**Which of the following are consequences of separate legal entity?**

- (1) A company is fully liable for its own debts
  - (2) A company owns its own property
  - (3) A company enters into contracts in its own name
- A (1) and (2) only  
B (1) and (3) only  
C (2) and (3) only  
D (1), (2) and (3)

**(2 marks)**

**180** There are a number of important legal differences between unincorporated businesses (e.g. partnerships), and incorporated businesses (e.g. companies).

**Which of the following are characteristics of a COMPANY?**

- (1) A company has perpetual succession
  - (2) A company is subject to the requirements of the Companies Act 2006.
  - (3) There is no separation of ownership and management in a company.
- A (1) and (2) only  
B (1) and (3) only  
C (2) and (3) only  
D (1), (2) and (3)

**(2 marks)**

**181** A shareholder believes that one of the company directors has misapplied company assets and wishes to take legal action against the director.

**Which of the following statements is true?**

- A The shareholder can personally take legal action against the director.
- B A minimum of 5 shareholders is required to take legal action against the director
- C The shareholder cannot take legal action. Only the company is able to sue the director as it is the company that has suffered harm
- D The shareholder is forbidden from disclosing this due to confidentiality

**(2 marks)**

**182** In the context of company law, in which of the following circumstances has it been considered necessary to lift the veil of incorporation?

- (1) Where a company is sham, established to help a party evade contractual obligations.
- (2) To identify the true nationality of a company.
- (3) Where a disqualified director participates in the management of a company.

- A (1) and (2) only  
B (1) and (3) only  
C (2) and (3) only  
D (1), (2) and (3)

**(2 marks)**



**183** There are a number of important legal differences between companies and partnerships.

**Which of the following statements is NOT true?**

- A There no formality required to create a partnership.
  - B Partnerships can create both fixed and floating charges as security for borrowing.
  - C Partners in a partnership are personally liable for the debts of the firm.
  - D Partnerships are not legally required to disclose their financial results to the general public
- (2 marks)**

**184** There are a number of important legal differences between companies and partnerships.

**Which of the following statements is NOT true?**

- A Companies are created by a formal registration procedure
  - B Companies are owned by shareholders, and managed by directors
  - C Companies must legally disclose certain financial information to the general public
  - D Companies may dissolve by agreement of the directors
- (2 marks)**

**185** In the context of company law, which of the following statements are true?

- (1) A private company can be limited or unlimited.
- (2) A private company can be limited by shares or by guarantee.
- (3) A public company can be limited by shares or by guarantee.

- A (1) and (2) only
  - B (1) and (3) only
  - C (2) and (3) only
  - D (1), (2) and (3)
- (2 marks)**

**186** Which of the following is NOT a legal requirement of a public company?

- A Name must end with 'plc' or 'public limited company'
  - B Must have a minimum of two directors
  - C Must have a company secretary
  - D In order to trade must have allotted shares of at least £25,000
- (2 marks)**

- 187** Tom is in the process of forming a company for his new business venture. He is keen to enter into pre-incorporation contracts but aware that he will be personally liable for any such contracts.

**What steps can Tom take to overcome the problem of pre-incorporation contracts?**

- (1) Postpone finalising contracts until after the company is formed.
- (2) Entering into an agreement of novation with all parties.
- (3) Buying an 'off-the-shelf' company to trade with immediately.

- A (1) and (2) only
- B (1) and (3) only
- C (2) and (3) only
- D (1), (2) and (3)

**(2 marks)**

- 188** In context of company registration, which of the following is NOT included in the Statement of Capital?

- A The number of shares taken on formation
- B Their aggregate nominal value
- C The amount paid-up on each share
- D A contact address for each subscriber

**(2 marks)**

- 189** In company law, the name of a company must comply with strict rules.

**Which of the following statements is NOT true?**

- A A company cannot have the same name as another company
- B Permission is required from the Secretary of State to use certain words such as 'Royal', 'Chartered', 'National' etc
- C A company's name cannot include words that are illegal or offensive
- D All company names must end in 'Limited' or 'Ltd'

**(2 marks)**

- 190** The articles of association form a company's internal constitution.

**Which of the following statements is NOT true?**

- A There are no mandatory contents
- B Articles of Association must be submitted as part of the company registration process
- C The articles operate as a binding contract between individual members in their capacity as members
- D Articles can usually be altered by a special resolution of members

**(2 marks)**

**191** In company law, the articles of association can usually be altered by a special resolution of members.

**In what circumstances can articles NOT be altered by special resolution?**

- (1) Where the articles are entrenched.
- (2) Where the alteration seeks to increase a member's liability to the company.
- (3) Where the alteration is NOT in the bona fide interests of the company as a whole.

- A (1) and (2) only
- B (1) and (3) only
- C (2) and (3) only
- D (1), (2) and (3)

**(2 marks)**

**192** In relation to the statutory books, returns and records of a company, which TWO of the following statements are correct?

- A Records of resolutions and meetings must be kept for a minimum of 10 years.
- B The annual confirmation statement contains details of fixed and floating charges created over the company's property.
- C A company's registers are not available for public inspection.
- D A private company can opt out of maintaining separate private registers

**(2 marks)**

**193** An agency relationship which is made retrospectively is referred to by which of the following terms?

- A Agency by estoppel
- B Agency by ratification
- C Agency by necessity

**(1 mark)**

**194** Which TWO of the following apply to shares of companies whose names end in 'Ltd'?

- A They may not be issued to non-members
- B They may not be offered to the public
- C They may not be transferred
- D They may not be traded on the stock exchange

**(2 marks)**

**195** Which of the following must a private company ALWAYS have?

- A Shares
- B Limited liability
- C A company secretary
- D A registration certificate

**(2 marks)**

- 196 Which of the following TWO exist as a separate legal entity from its members?**
- A An ordinary partnership
  - B A limited partnership
  - C A limited liability partnership
  - D An unlimited company
- (2 marks)**

- 197 In relation to agency law, 'warrant of authority' is provided by which of the following?**
- A The agent
  - B The principal
  - C The third party
- (1 mark)**

## **CAPITAL AND THE FINANCING OF COMPANIES**

- 198 When a company sells its shares at a higher value than the nominal value what happens to the difference in value?**
- A It is transferred into a share premium account
  - B It is distributed to members as dividends
  - C It is kept by the directors as a bonus
- (1 mark)**

- 199 What is the amount of the nominal share capital that has been paid for by the company members called?**
- A Paid-up share capital
  - B Issued share capital
  - C Allotted share capital
- (1 mark)**

- 200 Which of the following is NOT a type of share of a company?**
- A Ordinary
  - B Special
  - C Preference
- (1 mark)**

- 201 Which of the following correctly describes a floating charge?**
- A It is on a class of current assets which can be identified
  - B It is on a class of assets which may change in the ordinary course of business
  - C It is on a class of assets, present or future, which may change in the ordinary course of business
- (1 mark)**

**202 Which of the following statements is correct in relation to a private company wishing to reduce its share capital?**

- A It must pass an ordinary resolution
- B It must pass a special resolution
- C It does not need to pass a resolution (1 mark)

**203 Which of the following statements describes treasury shares?**

- A Shares issues by a public company to a creditor
- B A company's own shares that it legitimately purchased out of distributable profit
- C Shares held by a public company as an investment (1 mark)

**204 Which of the following statements describes a debenture?**

- A The registration document used to register a fixed or floating charge
- B A document that records the terms of any loan
- C A document that records the terms of any secured loan (1 mark)

**205 In relation to charges which of the following TWO are correct?**

- A A private company cannot create charges
- B A public company cannot create floating charges
- C Both private and public companies may create fixed and floating charges
- D A general partnership cannot create floating charges (2 marks)

**206 Where a company legitimately purchases 10% of its own shares out of profit, what can it hold them as?**

- A Treasury shares
- B Ordinary shares
- C Preference shares (1 mark)

**207 If a charge is created over property where must it be registered?**

- A Companies Registry
- B HMRC
- C Land registry (1 mark)

**208 Which of the following sources of company finance typically carries NO fixed entitlement to income?**

- A Ordinary shares
- B Preference shares
- C Secured debentures
- D Unsecured debentures (2 marks)

**209 Which of the following sources of company finance is classed as 'equity' but typically carries NO voting rights?**

- A Ordinary shares
- B Preference shares
- C Secured debentures
- D Unsecured debentures

**(2 marks)**

**210 In the context of company finance, which of the following statements is true?**

- A Fixed charges rank lower than floating charges on winding up
- B Fixed charges rank lower than preference shares on winding up
- C Fixed charges are security over a specific asset
- D Fixed charges are security over a class of assets

**(2 marks)**

**211 In the context of company finance, which of the following are advantages of debentures?**

- (1) Debentures carry no voting rights and therefore do not dilute control of existing shareholders.
  - (2) There are no restrictions on the company issuing debentures at a discount.
  - (3) The board of directors do not usually require authority of shareholders to issue debentures.
- A (1) and (2) only
  - B (1) and (3) only
  - C (2) and (3) only
  - D (1), (2) and (3)

**(2 marks)**

**212 In the context of company finance, which of the following are disadvantages of debentures?**

- (1) Debentures carry no voting rights and therefore do not dilute control of existing shareholders.
  - (2) Interest must be paid to debenture holders irrespective of whether there are profits available.
  - (3) High levels of debt will adversely affect a company's share price.
- A (1) and (2) only
  - B (1) and (3) only
  - C (2) and (3) only
  - D (1), (2) and (3)

**(2 marks)**

- 213** A company wishes to raise finance by issuing new shares to existing shareholders for an amount slightly less than their current market value?

**This is an example of which of the following?**

- A Bonus issue
- B Rights issue
- C Issue at a discount
- D Issue at nominal value

**(2 marks)**

- 214** In company law, directors require authority to make a share issue.

**Which of the following statements is NOT true?**

- A Authority may be given in the articles of association
- B Authority may be given by passing an ordinary resolution
- C The authority must state the maximum number of shares to be issued
- D The maximum expiry date for the authority is TWO years

**(2 marks)**

- 215** In the context of a company issuing shares, which one of the following is FORBIDDEN by the Companies Act 2006?

- A Issuing shares at a premium to nominal value
- B Issuing shares at a discount to nominal value
- C Issuing partly paid shares
- D Issuing bonus shares

**(2 marks)**

- 216** In company law, a premium received on the issue of new shares must be credited to a 'share premium reserve'.

**Which of the following can the share premium reserve NOT be used for?**

- A Writing off expenses of the share issue
- B Writing off any commission paid on the share issue
- C Issuing bonus shares
- D Funding dividends to shareholders

**(2 marks)**

- 217** In company law there are strict rules concerning how public companies receive payment for newly issued shares.

**Which of the following statements is NOT true for public companies?**

- A Payment for shares must not be in the form of work or services
- B Shares cannot be allotted until at least one-half of the nominal value has been paid
- C Non-cash consideration must be independently valued within six months prior to allotment
- D Non-cash consideration must be received within five years

**(2 marks)**

**218** In company law, a company can only make a dividend payment out of distributable reserves.

**Which of the following are UNDISTRIBUTABLE reserves?**

- (1) Share premium reserve
- (2) Revaluation reserve.
- (3) Share capital reserve.

- A (1) and (2) only
- B (1) and (3) only
- C (2) and (3) only
- D (1), (2) and (3)

**(2 marks)**

**219** In the context of company finance, which of the following is usually repaid **FIRST** on liquidation of a company?

- A Floating charge creditors
- B Ordinary shareholders
- C Fixed charge creditors
- D Preference shareholders

**(2 marks)**

**220** In the context of company finance, fixed and floating charges must be registered with the Registrar at Companies House.

**Which of the following statements is NOT true?**

- A Registration must occur within 14 days of creation
- B Registration must occur within 21 days of creation
- C Registration can be undertaken by the chargeholder
- D Registration can be undertaken by the company

**(2 marks)**

**221** Which of the following correctly defines profits available for distribution in a private company?

- A Accumulated realised profits less accumulated realised losses
- B Accumulated realised profits less losses for the current year
- C Accumulated realised profits
- D Accumulated realised profits less accumulated realised and unrealised losses

**(2 marks)**

**222** Which of the following statements in relation to company finance is correct?

- A Shares can be issued at a discount to nominal value
- B Debentures can be issued at a discount to nominal value
- C Both shares and debentures can be issued at a discount to nominal value

**(1 mark)**



**223** On 1 April 20X9 Jabeen created a fixed charge for £50,000 over the assets of Clogs Ltd and it was registered on 1 June 20X9. On 1 May 20X9 a fixed charge for £100,000 was created over the same assets on behalf of Adeel. Adeel's fixed charge was registered on 13 May 20X9.

**Which of the following statements describes the priority of the two fixed charges?**

- A Jabeen's fixed charge has priority as it was created first
- B Adeel's fixed charge has priority as it was registered within 21 days of creation before Jabeen's fixed charge
- C Both charges rank equally in priority as they are both fixed
- D Adeel's fixed charge has priority as it has a greater value **(2 marks)**

**224** In relation to non-cash consideration as payment for public company shares, which of the following statements are correct?

- (1) Non-cash consideration must be received within 3 years
  - (2) The valuation of non-cash consideration must be carried out in the six months prior to allotment
- A (1) only
  - B (2) only
  - C Both (1) and (2)
  - D Neither (1) or (2) **(2 marks)**

**225** Which of the following are ordinary partnerships UNABLE to create in relation to their property?

- A Mortgages
- B Fixed charges
- C Floating charges **(1 mark)**

**226** The category of treasury shares comes into existence under which of the following circumstances?

- A They are issued as such by a private company
- B They are issued as such by a public company
- C They are purchased as such by the exchequer
- D They are purchased as such by a private or public company **(2 marks)**

## MANAGEMENT, ADMINISTRATION AND REGULATION OF COMPANIES

**227** Ceres plc last held an annual general meeting (AGM) on 31 October 2007.

**When must the company hold its next AGM?**

- A 31 October 2009
  - B 31 December 2009
  - C Within 6 month period after the accounting reference date
  - D Within 9 month period after the accounting reference date
- (2 marks)**

**228** 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)**

**229** 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)**

**230** Where a person is held out by a company as a director and performs the duties of a director without being validly appointed, what is that person deemed to be?

- A A de facto director
  - B A shadow director
  - C An executive director
- (1 mark)**

**231** When is shorter notice than that required for an AGM of a plc permitted?

- A With a minimum member support of 75%
  - B With a minimum member support of 90%
  - C With 100% member support
- (1 mark)**

**232** What percentage of support is required to pass a written ordinary resolution in a private limited company?

- A 100%
  - B 95%
  - C 50%+
- (1 mark)**

**233 Which of the following is NOT a type of company director?**

- A A supreme director
  - B An executive director
  - C A shadow director
- (1 mark)**

**234 What is the minimum age of a director as required by Companies Act 2006?**

- A 16
  - B 18
  - C 21
- (1 mark)**

**235 To whom does a director owe their statutory duties to?**

- A The members
  - B The board of directors
  - C The company as a whole
- (1 mark)**

**236 Which of the following describes a director with day to day responsibility for running a company?**

- A Chairman of the Board
  - B President
  - C Managing Director
- (1 mark)**

**237 Which of the following is NOT a type of meeting?**

- A Annual general meeting
  - B General meeting
  - C Special meeting
- (1 mark)**

**238 Which of the following statements in relation to auditors is correct?**

- A An auditor must be a member of a recognised supervisory body
  - B Only individuals and not firms can act as an auditor
  - C An auditor cannot be removed until their term of office has expired
- (1 mark)**

**239** Gulliver Ltd has recently dismissed one of its directors. Gulliver Ltd wishes to pay Joe compensation for loss of office.

**Who must approve this payment?**

- A The board of directors
  - B HMRC
  - C The creditors
  - D The shareholders in a general meeting
- (2 marks)**

**240 Identify whether the following statements are true or false.**

	True	False
The statutory duty of a director to disclose any interest that he has in a proposed transaction or arrangement with the company does not apply to shadow directors.		
A director may not exercise his powers except for the purpose for which they were conferred		

**(2 marks)**

**241** Steven and his fellow directors Marcus and Tom each own 100 of the 300 shares in Simple Pies Ltd. Under the articles of association, where a resolution is proposed to remove a director, that director is entitled to three votes per share. Marcus and Tom vote to remove Steven but when a poll is taken, Steven defeats the resolution by 300 votes to 200.

**Which of the following best describes the legal position?**

- A Steven has not been removed because the weighted voting rights have been validly given and validly exercised.
- B Steven has been removed because the article giving weighted voting rights contravenes the Companies Act 2006 which enables a director to be removed on the passing of an ordinary resolution with special notice.
- C Steven has not been validly removed because the articles would effectively mean that a director could never be removed.
- D Steven has been validly removed because voting should not have been conducted by a poll on a resolution to remove a director.

**(2 marks)**

**242 Which TWO of the following are statutory duties of a director?**

- A To promote the success of the company
- B To promote the relationship between directors and employees
- C To declare trading losses to members
- D To declare an interest in an existing transaction or arrangement

**(2 marks)**

**243** Rebecca is appointed director of Blue Ltd, and given ultimate control over the day-to-day management of the company.

**In the context of company law, what is Rebecca considered to be?**

- A Managing director
- B Shadow director
- C Non-executive director
- D De-facto director

**(2 marks)**

**244** Margaret is appointed by a director of Peach Ltd to attend and vote for them at board meetings when they are personally unable to attend.

**In the context of company law, which of the following types of director is Margaret classified as?**

- A Chief executive officer
- B Alternate director
- C Non-executive director
- D Shadow director

**(2 marks)**

**245** The Company Directors (Disqualification) Act 1986 identifies distinct categories of conduct which may give rise to a disqualification order being made.

**Which of the following are NOT grounds for disqualification under the Act?**

- A Persistent breaches of the Companies Act 2006
- B Unfitness to manage a company
- C Participation in wrongful trading
- D Committing a criminal offence

**(2 marks)**

**246** In company law, what period of notice is required by the use of the term special notice when removing a director from office?

- A 14 days
- B 21 days
- C 28 days
- D 31 days

**(2 marks)**

**247** In company law, which of the following is NOT a statutory duty of directors?

- A Duty to act within their powers
- B Duty to exercise independent judgement
- C Duty to avoid conflicts of interest
- D Duty to protect shareholder value

**(2 marks)**

**248** A director is in breach of their statutory duties.

**Which of the following statements is NOT true?**

- A Directors owe their duties to the company as a whole, not to individual members.
- B The director may be required to make good any loss suffered by the company.
- C Any property taken by the director from the company can be recovered from them if it is still in their possession.
- D Breach of statutory duties is grounds for disqualification under the Company Directors (Disqualification) Act 1986.

**(2 marks)**

- 249 In relation to company secretaries, which of the following statements is NOT true?**
- A All companies must have a company secretary.
  - B There are no statutory duties of company secretary.
  - C A company secretary has the apparent authority to bind the company in contracts of an administrative nature.
  - D A company secretary requires express (actual) authority from the board to bind the company in commercial contracts. **(2 marks)**
- 250 Which of the following applies to the concept of enlightened shareholder value?**
- A It is the price shares can be expected to raise if they were to be sold
  - B It is the yardstick for assessing the performance of directors' duties
  - C It is the standard of behaviour expected of shareholders in general meetings **(1 mark)**
- 251 Which of the following statements regarding the age limits for serving as a director in a public limited company is true?**
- A Minimum age 16 years and no maximum age
  - B Minimum age 21 years and no maximum age
  - C Minimum age 21 years and maximum age 75 years
  - D Minimum age 16 years and maximum age 75 years **(2 marks)**

## INSOLVENCY LAW

- 252 When a director makes a Declaration of Solvency before a members' voluntary liquidation, for how many months are they stating that the company will be able to pay its debts?**
- A 3 months
  - B 6 months
  - C 12 months **(1 mark)**
- 253 When is a company deemed to be unable to pay its debts for the purposes of a compulsory liquidation?**
- A Where a creditor is owed at least £250
  - B Where a creditor is owed at least £500
  - C Where a creditor is owed at least £750 **(1 mark)**
- 254 Which of the following persons or bodies can petition to the court for a compulsory liquidation?**
- A The company itself
  - B Any creditor
  - C Any director **(1 mark)**

- 255 When a liquidator is appointed, he becomes the agent of which of the following?**
- A The members
  - B The creditors
  - C The company
- (1 mark)**
- 256 On a compulsory winding up of a company, who will the court usually appoint?**
- A The auditor of the company
  - B The Official Receiver
  - C A qualified insolvency practitioner
- (1 mark)**
- 257 When a company goes into a creditors' voluntary winding up, who appoints the liquidator?**
- A Members
  - B Creditors
  - C Directors
- (1 mark)**
- 258 When a company goes into a creditors voluntary winding up, what is the maximum number of persons that can be appointed to serve on the Liquidation Committee?**
- A 5
  - B 8
  - C 10
  - D 12
- (2 marks)**
- 259 Which of the following is NOT a ground for compulsory winding up under the Insolvency Act 1986?**
- A A public company has not been issued with a trading certificate within a year of incorporation
  - B The company has not paid a dividend during the last two years
  - C It is just and equitable to wind up the company
  - D The company has passed a special resolution to be wound up by the court
- (2 marks)**
- 260 Which of the following is a preferential creditor when a company goes into liquidation?**
- A Arrears of holiday pay due to employees
  - B Money owed to HMRC for PAYE deductions
  - C Money owed to utilities providers
  - D Money owed to a builder for a recent refurbishment
- (2 marks)**

**261 Which of the following ranks lowest in a liquidation?**

- A Trade creditors
- B Fixed charge holder
- C Floating charge holder
- D Employees for unpaid wages

**(2 marks)**

**262 Which of the following CANNOT appoint an administrator directly?**

- A The court
- B The holder of a qualifying floating charge over the company's assets
- C The company itself
- D A creditor who is owed £800

**(2 marks)**

**263 Which of the following is NOT an immediate and automatic consequence of administration?**

- A All employees are made redundant
- B Any outstanding petition for winding up is dismissed
- C No resolution may be passed to wind up the company
- D The directors still continue in office

**(2 marks)**

**264 Identify whether the following statements are true or false.**

	True	False
An administrator is the company's agent		
An administrator must act in the best interests of all the company's creditors		

**(2 marks)**

**265 An administrator can pay out monies to which of the following without court approval?**

- (i) Secured creditors
- (ii) Preferential creditors
- (iii) Unsecured creditors
- A (i) and (ii)
- B (i) and (iii)
- C (ii) and (iii)
- D (i) only

**(2 marks)**



**266 Where directors make a false statement of solvency prior to a members' voluntary liquidation, which of the following have they committed under the relevant legislation?**

- A A breach of criminal law with criminal penalties
- B A breach of civil law with criminal penalties
- C A breach of civil law with civil liability
- D A breach of both civil and criminal law with liabilities under both (2 marks)

**267 Which of the following requires court approval before the appointment of an administrator?**

- A Creditors
- B Holders of floating charges
- C The directors of the company
- D The company itself (2 marks)

**268 Which of the following is NOT an automatic consequence of a compulsory winding up order against a public limited company?**

- A Transfers of shareholdings are suspended
- B Liquidation is deemed to start on the date of the issuing of the order
- C Directors cease to exercise any management power
- D Employees are immediately dismissed (2 marks)

**269 In which of the following TWO procedures does a liquidation committee operate?**

- A Compulsory liquidation
- B A members' voluntary liquidation
- C A creditors' voluntary liquidation
- D Administration (2 marks)

## **CORPORATE FRAUDULENT AND CRIMINAL BEHAVIOUR**

**270 What type of action can fraudulent trading give rise to?**

- A Civil action only
- B Criminal action only
- C Both civil and criminal action (1 mark)

**271 Which of the following are able to enter into a deferred prosecution agreement?**

- A Individuals only
- B Commercial organisations only
- C Both individuals and commercial organisations (1 mark)

- 272 When a person suspects another of money laundering, to which of the following TWO could they report this suspicion to?**
- A Financial Conduct Authority
  - B National Crime Agency
  - C Money Laundering Reporting Officer
  - D Department of Business, Energy and Industrial Strategy
- (2 mark)**
- 273 In relation to money laundering, when monies take on the appearance of coming from a legitimate source, what is this known as?**
- A Placement
  - B Layering
  - C Integration
- (1 mark)**
- 274 What is a valid defence against the corporate offence of failing to prevent bribery?**
- A Having adequate procedures in place, based on a risk assessment
  - B Lack of knowledge of the offence
  - C The offence was committed by a temporary member of staff
- (1 mark)**
- 275 What type of law is market abuse a breach of?**
- A Criminal law only
  - B Civil law only
  - C Criminal and civil law
- (1 mark)**
- 276 What is it necessary to establish to convict someone of fraudulent trading?**
- A That the directors had dishonest intent
  - B That the directors were not shadow directors
  - C That the shareholders suffered a loss
- (1 mark)**
- 277 What are the phases of money laundering?**
- (i) Integration
  - (ii) Layering
  - (iii) Adjustment
  - (iv) Placement
- A (i), (ii) and (iii)
  - B (i) and (ii) only
  - C (ii) and (iii) only
  - D (i), (ii) and (iv)
- (2 marks)**

**278 Which of the following are characteristics of inside information?**

- (i) The information relates to particular securities or issuer of securities
- (ii) The information is specific or precise
- (iii) The information is not public
- (iv) If made public, the information would affect the price of the security

- A (i) and (iii) only
- B (i) only
- C (ii) and (iii) only
- D (i), (ii), (iii) and (iv)

**(2 marks)****279 Which of the following is a corporate bribery offence?**

- A Bribing an individual
- B Receiving a bribe
- C Bribing a public foreign official
- D Failure to prevent bribery

**(2 marks)****280 Which of the following statements is correct?**

An action for wrongful trading can be brought:

- (i) Regardless of whether the company is solvent or not
- (ii) Against directors and shadow directors only

- A (i) only
- B (ii) only
- C Both (i) and (ii)
- D Neither (i) and (ii)

**(2 marks)****281 Identify the stages of the corporate offence on the failure to prevent the criminal facilitation of criminal tax evasion.**

	Stage 1	Stage 2	Stage 3
The criminal facilitation of the offence by an associated person			
The criminal evasion of tax			
The relevant body failed to prevent the associated person from committing the facilitation			

**(2 marks)**

**282 Which of the following would not be a 'relevant body' in relation to the failure to prevent the criminal facilitation of criminal tax evasion?**

- A A non-UK company
- B A general partnership
- C A sole practitioner

**(1 mark)**

**283 Identify whether the following statements in relation to the Money Laundering Regulations 2017 are true or false.**

	True	False
A Money Laundering Compliance Principal must be on the board of directors.		
The Money Laundering Reporting Office and the Money Laundering Compliance Principal cannot be the same person.		

**(2 marks)**

**284 Which of the following statements is correct in relation to the Money Laundering Regulations 2017?**

A risk assessment should:

- 1 Develop policies, procedures and controls to mitigate the risk of money laundering
  - 2 Apply a compliance based approach to detecting and preventing money laundering
- A 1 only
  - B 2 only
  - C Both 1 and 2
  - D Neither 1 and 2

**(2 marks)**



## Section 2

# MULTI-TASK QUESTIONS

### THE LAW OF OBLIGATIONS

#### 285 AMY AND BEN (A)

##### Background

In January 2009, Amy started a business as an independent website designer. To give her a start in her career, her brother Ben, who ran a retail business, said he would give her £1,000 if she updated his business website.

However, by the time Amy had completed the project her design business had become a huge success and she had lots of other clients. When Ben discovered how successful Amy's business had become he felt that he should not be asked to pay for the work which Amy had done.

Ben said he would not pay anything as he had only offered the work to help his sister out.

##### Task 1

(2 marks)

**In relation to contract law, which TWO of the following statements describe Ben's promise to pay Amy £1,000 for updating his website?**

- His promise is a valid offer
- His promise is an invitation to treat
- His promise is valid consideration
- His promise is not valid consideration

##### Task 2

(2 marks)

**Which TWO of the following statements are correct?**

- The law presumes that no intention to create legal relations exists between Ben and Amy because they are related
- The law presumes that intention to create legal relations exists between Ben and Amy because they are entering into a form of business transaction
- There is clear evidence to rebut the presumption that intention exists
- There is clear evidence to rebut the presumption that intention does not exist

**Task 3****(2 marks)**

**If Amy decides to sue Ben for breach of contract, which TWO of the following statements are correct?**

- Amy would be entitled to £1,000 damages, reflecting the agreed contract price
- Amy would only be entitled to claim damages for the costs incurred in performing the work
- Amy would have three years to bring legal action
- Amy would have six years to bring legal action

**286 ARTI (A)****Background**

In January 2016 Arti entered in a contractual agreement with Bee Ltd to write a study manual for an international accountancy body's award. It was a term of the contract that the text should be supplied by 30 June 2016 so that it could be printed in time for September. By 30 May 2016, Arti had not yet started on the text and indeed he wrote to Bee Ltd on 1 June 2016 stating that he was too busy to write the text and would therefore not meet the agreed deadline.

Bee Ltd was extremely perturbed by the news, especially as it had acquired the contract to supply all of the accountancy body's study manuals and had already incurred extensive preliminary expenses in relation to the publication of the new manual.

**Task 1****(2 marks)**

**Which of the following statements best describes the legal effect of Arti's letter to Bee Ltd?**

- Arti's letter represents an actual breach of contract
- Arti's letter represents an implied anticipatory breach of contract
- Arti's letter represents an express anticipatory breach of contract
- Arti's letter has no legal effect as Arti had no intention to create legal relations

**Task 2****(2 marks)**

**With regards to anticipatory breach of contract, which TWO of the following statements are correct?**

- Anticipatory breach will automatically bring a contract to an end, and the innocent party will sue for damages immediately
- Anticipatory breach allows the innocent party the option to treat the contract as discharged and sue for damages immediately
- Anticipatory breach allows the innocent party the option to treat the contract as still valid, and only sue for damages once there has been an actual breach
- Anticipatory breach allows the innocent party to claim more damages than in the event of an actual breach

**Task 3****(2 marks)****Which of the following remedies would be most appropriate in the event of Arti's breach?**

- Damages
- Specific performance
- Rescission
- Injunction

**287 AMY AND BRY (A)****Background**

In January 2016 Ami took over an old warehouse with the intention of opening an art gallery. As the warehouse had to be converted, Ami entered into a contract with Bry to do the conversion for £5,000. Bry received an initial payment of £1,000 and agreed to have the work completed on 31 March 2016, as the art gallery had to be ready for its first exhibition on 1 May 2016.

At the end of February 2016, Bry told Ami that he would not complete the work in time unless she agreed to increase his payment by a further £1,000. Despite feeling very unhappy with Bry, Ami felt that she had no option but to agree to pay the increased sum, in order to ensure that the job was done on time and her exhibition go ahead as planned.

In the event, Bry completed the work one week earlier than agreed, however, Ami refused to pay the additional £1,000 above the original contractual price.

**Task 1****(2 marks)****With regards to Ami's promise to pay Bry an additional £1,000 above the original contract price, which TWO of the following statements are correct?**

- The promise is legally binding if Bry can prove that his original price was too low for the amount of work required
- Bry's promise is executory consideration
- Bry's consideration is a promise to perform existing statutory duties
- Bry's consideration is a promise to perform existing contractual duties

**Task 2****(2 marks)****With regards to consideration in contract law, which TWO of the following statements are correct?**

- Performing an existing statutory or contractual duty is not valid consideration, subject to certain exceptions
- Performing an existing statutory or contractual duty is never valid consideration
- If a promise of payment is extracted by pressure or threat, the contract is void
- There is no requirement in law for each party's consideration to be equal in value



**Task 3****(2 marks)**

**In relation to the above, which of the following statements best describes Bry's promise to complete the work on time?**

- In completing the work one week earlier than agreed, Bry has exceeded his existing contractual duty and therefore provided valid consideration
- Completing the work on time has enabled Ami to open her gallery on schedule, and the practical benefit this confers amounts to valid consideration
- Ami benefitted from Bry completing the work on time, however, the promise of extra payment was extracted from Ami by pressure and therefore his consideration is not valid
- Bry's promise to complete the work on time is valid consideration according to the doctrine of promissory estoppel

**288 BILD LTD (A)**

Astride entered into a contract with Bild Ltd to construct a wall around the garden of a house she had just purchased. The wall was to be three metres high to block out a view of a rubbish tip.

Bild Ltd finished the wall on 25 May. However when Astride came to examine it for the first time she found that it was only 2.50 metres high and that the rubbish tip was still visible from the top of her garden. The cost of making the wall meet the required height is £2,000.

**Task 1****(2 marks)**

**Which TWO of the following statements explain the purpose of awarding damages for breach of contract?**

- They are a punishment for the party in breach
- They compensate the injured party for any financial loss
- They put the parties in the position they were in before the contract was formed
- They put the parties in the position they would have been in had the contract been performed

**Task 2****(2 marks)**

**Which TWO of the following statements explain how damages could be measured in a building contract?**

- It would be the difference in value between the building as it has been completed and its value if it had been properly completed
- It would be the cost of completing the work to an industry standard specification
- It would be the cost of completing the work to the required specification regardless of the cost
- It would be the cost of completing the work to the required specification unless the cost of remedying the defects are disproportionate to the difference in value between what was supplied and what was ordered

**Task 3****(2 marks)****Which of the following remedies would Astride claim for?**

- Specific performance
- Nominal damages
- Injunction
- Damages of £2,000

**289 ALI (A)**

Ali is an antique dealer and one Saturday in November 2007 he put a vase in the window of his shop with a sign which stated 'exceptional piece of 19th century pottery – on offer for £500'.

Ben happened to notice the vase as he walked past the shop and thought he would like to have it. Unfortunately, as he was late for an important meeting, he could not go into the shop to buy it, but as soon as his meeting was finished he wrote to Ali agreeing to buy the vase for the stated price of £500. The letter was posted at 11:30 am.

Just before closing time at 5 pm. Di came into Ali's shop and she also offered £400 for the vase. This time Ali agreed to sell the vase at that price and Di promised to return the following Monday with the money.

On the Monday morning Ali received the letter from Ben before Di could arrive to pay and collect the vase.

**Task 1****(2 marks)****Which TWO of the following statements are correct?**

- An offer must be in writing
- An offer can be in any form
- An offer must be communicated to the offeree
- A statement of selling price constitutes an offer

**Task 2****(2 marks)****Which TWO of the following statements are correct?**

- The shop window sign and display is an offer
- The shop window sign and display is an invitation to treat
- Ben's letter to Ali is an offer
- Ben's letter to Ali is acceptance

**Task 3****(2 marks)****Which TWO of the following statements are correct?**

- There is a contract between Ali and Ben
- There is no contract between Ali and Ben
- There is a contract between Ali and Di
- There is no contract between Ali and Di

**290 ALVIN (A)****Background**

Alvin runs a business selling expensive cars. Last Monday he mistakenly placed a notice on one car indicating that it was for sale for £5,000 when in fact its real price was £25,000. Bert later noticed the sign and, recognising what a bargain it was, immediately indicated to Alvin that he accepted the offer and would take the car for the indicated amount. Alvin, however, told Bert that there had been a mistake and that the true price of the car was £25,000, and he could buy it at that price. Bert insisted that he was entitled to get the car at the lower price, and when Alvin would not give it to him at that price Bert said that he would sue Alvin.

After Bert had left, Cat came in to the showroom and Alvin offered to sell her the same car for £25,000. Cat told Alvin that she would like to buy the car, subject to arranging finance, and she would be in touch soon to confirm.

On Tuesday Del came by and offered Alvin the full £25,000 asking price, which Alvin accepted. They agreed Del would return on Friday to pay for the car and take it away.

**Task 1****(2 marks)**

**In relation to Alvin and Bert's dispute above, which TWO of the following statements are correct?**

- The £5,000 price tag is an invitation to treat, and not a valid offer
- The £5,000 price tag is a valid offer, which Bert has accepted
- Alvin has made a valid offer for £25,000, which Bert has rejected by counter offer
- There is a binding contract for the sale and purchase of the car at a price of £5,000

**Task 2****(2 marks)**

**In relation to Alvin and Cat, which TWO of the following statements are correct?**

- There is a binding contract for the sale and purchase of the car at a price of £25,000
- Cat's acceptance is conditional, and therefore not valid
- Acceptance, subject to arranging finance, is effectively a counter-offer
- Alvin's offer will terminate after a reasonable period of time

**Task 3****(2 marks)**

**In relation to Alvin and Del, which TWO of the following statements are correct?**

- A binding contract between Alvin and Del was created on Tuesday
- There is no binding contract until Del pays for the car
- There is no binding contract because Alvin's acceptance was conditional on Del returning on Friday to pay for the car
- If Del does not return on Friday to pay for the car, he is in breach of contract

**291 ARI (A)****Background**

Ari operates a business as a designer of internet web pages for a variety of business clients. Unfortunately he has had some difficulty in recovering his full fees from a number of clients as follows:

- (a) Bi, a newly qualified accountant, told Ari that although she could only raise the cash to pay half of the outstanding fees she would, as an alternative to paying the other half, do all of Ari's accountancy work for the coming year. Ari agreed to this arrangement.
- (b) Cas, a self-employed musician, told Ari that she could not pay any of the money she owed him. However, her father offered to pay Ari, but could only manage half of the total amount owed. Ari agreed to the payment as full and final settlement of the outstanding debt.
- (c) Dex, a self-employed car mechanic, has outstanding fees that are nine months overdue. Without contacting Ari, Dex simply sent him a cheque for half of his fees stating that he could not pay any more and that the cheque was in full settlement of his outstanding debt.

Ari himself is now in financial difficulty and needs additional cash to maintain his business operation.

**Task 1****(2 marks)**

**In relation to Ari and Bi, which of the following statements is correct?**

- As Ari agreed to accept Bi's offer to do his accounts as part payment of her outstanding debt there is nothing further he can do to recover any more money
- Bi's offer to do Ari's accounts does not discharge her debts as this is a "gentlemen's agreement"
- Ari agreeing to accept Bi's offer effectively terminates their original contract and creates a new contract for the provision of accounting services from Bi to Ari
- Bi's offer to do Ari's accounts does not discharge her debts as she does not make it clear that the services are provided in full and final settlement of her outstanding fees

**Task 2****(2 marks)**

**In relation to Ari and Cas, which of the following statements is correct?**

- Since Ari has accepted the offer of part payment, he is prevented from going back on his agreement by the equitable doctrine of promissory estoppel
- By accepting part payment from a third party, i.e. Cas's father, Ari cannot recover any more money from Cas
- The agreement between Ari and Cas's father is an example of accord and satisfaction
- Since the agreement with Cas's father is made in a domestic context, the law presumes there is no intention to create legal relations

**Task 3****(2 marks)****In relation to Ari and Dex, which of the following statements is correct?**

- If Ari cashes the cheque, he accepts full and final settlement of Dex's outstanding fees, and will be unable to recover the remaining half of his debt
- Since the debt is over six months old, Ari is only entitled to recover 50% of the outstanding amount. Consequently, Dex's part payment is full and final settlement of his debt
- Dex's letter to Ari is an example of accord and satisfaction. Consequently, Dex's part payment is full and final settlement of his debt
- Dex acted unilaterally and did nothing additional to compensate Ari for his part payment. Consequently Dex remains liable for the remaining half of his bill

**292 BUD (A)****Background**

Ali is a dealer in Persian rugs. In his shop he has a unique item for sale, with a price tag, displayed prominently, for £2,000.

As his business has been rather slow, he placed an advertisement in the Saturday edition of his local paper stating:

'25% Discount! Once in a lifetime opportunity to own a unique, handmade Persian antique rug for only £1,500 – cash only. This is a serious offer – the rug will go to the first person who accepts it – offer valid for one day only – today Saturday.'

When Bud saw the advert, he immediately visited the shop to buy the rug. When he got there, he was the first person to do so; however, Ali would not sell it to him for £1,500 and instead demanded £2,000.

**Task 1****(4 marks)****In respect of the scenario, identify whether the following statements are true or false.**

	True	False
The advertisement is a mere statement of intention to sell, and is not an offer		
The price tag is an invitation to treat, and is not an offer		
Since the price tag is displayed prominently, it is a valid offer		
The advertisement is likely to be considered an offer, due to the specific wording and unreserved commitment to enter into contract		

**Task 2****(2 marks)****In the event that Ali is in breach of contract with Bud, which of the following remedies is the most appropriate in the circumstances?**

- Loss of bargain damages
- Quantum Meruit damages
- Rescission of contract
- Specific performance

**293 ABID (A)**

Abid regularly took his car to be serviced at his local garage, Bust Ltd. On the four previous occasions, before handing his car over to the garage, Abid had always been required to read and sign a contractual document which contained the following statement in bold red type:

‘Bust Ltd accepts no responsibility for any consequential loss or injury sustained as a result of any work carried out by the company, whether as a result of negligence or otherwise.’

On the most recent occasion, due to the fact that the garage was very busy when he arrived, Abid was not asked to sign the usual document. He was, however, given a receipt for the car, which he accepted without reading. Bust Ltd’s usual business terms were printed on the back of the receipt, including the statement above.

On driving the car home after its service, Abid was severely injured when the car suddenly burst into flames. It subsequently emerged that the fire had been the result of the negligent work by one of Bust Ltd’s mechanics. Bust Ltd has accepted that its mechanic was negligent but denies any liability for Abid’s injuries, relying on the exclusion clause above.

**Task 1****(2 marks)**

**Which of the following TWO statements are correct?**

- An exclusion clause can be incorporated into a contract by signature
- An exclusion clause can be incorporated into a contract before or after the contract is made
- An exclusion clause can be incorporated into a contract by notice
- An exclusion clause cannot be incorporated into a contract by previous dealings

**Task 2****(2 marks)**

**Which of the following TWO statements are correct?**

- An exclusion clause needs to pass the common law or statutory rules
- An exclusion clause needs to pass the common law and statutory rules
- CRA 2015 applies to business to consumer contracts only
- CRA 2015 applies to business to consumer and business to business contracts

**Task 3****(2 marks)**

**Which of the following TWO statements are correct?**

- The exclusion clause has been incorporated through previous dealings
- Under the CRA 2015 the exclusion clause is unenforceable if the courts deem it fails the fairness or transparency tests
- Under the CRA 2015 the exclusion clause is automatically unenforceable as it attempts to exempt liability for personal injury due to negligence.
- The exclusion clause has not been incorporated

**294 ANN (A)****Background**

Ann owns a shop selling prints. She placed an advertisement in the Friday edition of her local paper stating:

‘Opportunity to own a unique Bell print for £500 cash. Offer valid for one day only – tomorrow Saturday.’

When Con saw the advert, he immediately posted a letter of acceptance.

On Saturday, Di asked Ann if she would take a cheque for £500, but she refused to accept the cheque and told her she could only have the print for cash. Later that day Ann agreed to sell the print to Evi, who would pay on collection the following Monday afternoon.

On Monday morning Con’s letter arrived. Later that day Di returned to the shop to pay for the print with cash, shortly followed by Evi.

**Task 1 (2 marks)**

**In relation to Ann’s advertisement, which TWO of the following statements are correct?**

- The advertisement is merely marketing jargon and does not amount to a valid offer
- Most advertisements are invitations to treat, and cannot be accepted to form a binding contract
- The wording of Ann’s advert was sufficiently categorical for it to have been a valid offer to the world at large
- Ann’s advertisement is not a valid offer, since it is not possible to make an offer to the world at large

**Task 2 (2 marks)**

**In the event that Ann’s advertisement is a valid offer, which TWO of the following statements are correct?**

- The postal rule does not apply to Con’s letter, since it was not sent via recorded delivery
- If the postal rule applies, Con’s acceptance is completed as soon as the letter is received i.e. Monday
- The postal rule will only apply where it is in the contemplation of the parties that the post will be used as the means of acceptance
- The postal rule does not apply to Con’s letter, since the use of the post was clearly an inappropriate mode of acceptance in the circumstances

**Task 3 (2 marks)**

**In relation to the sale of the print, which of the following statements is false?**

- Di’s request to pay by cheque was a counter-offer
- Di’s request to pay by cheque was merely a request for information
- Di’s attempt to purchase the print for cash amounted to a new offer
- Due to the unique nature of the print, specific performance would be an appropriate remedy in the event that Ann refuses to sell the print to Evi

**295 JOAN & DAVID****Background**

Joan booked some flights for her and her family to go on a holiday to Spain. When booking on-line there was a clearly displayed notice that said "You may be charged additional fees for excess baggage". Joan read the notice but didn't think that it was relevant as her family are always sensible with their baggage and always seem to take less than other people. When they check in at the airport they are told that they need to pay additional charges of £200 as their baggage weight exceeds 40kg

David has signed up to a mobile phone contract with Purple Telecoms for £20 a month. After he agrees to the deal he discovers that his friend Ben got the exact same package with Purple on the same day for £15. He immediately calls Purple Telecoms to argue that the deal is unfair.

**Task 1****(2 marks)**

**The Consumer Rights Act 2015 applies to which TWO of the following?**

- Business to consumer contracts only
- Business to business and business to consumer contracts
- Terms that seek to limit or exclude a party's liability for breach of contract
- All terms in the contract

**Task 2****(2 marks)**

**Under the CRA 2015 which TWO of the following are correct?**

- A black listed term is automatically unenforceable under the Act
- A black listed term is only unenforceable if the courts deem it to have failed the fairness or transparency tests
- A grey listed term is only unenforceable if the courts deem that it fails the fairness or transparency tests
- A grey listed term is only unenforceable if the courts deem that it fails the fairness and transparency tests.

**Task 3****(2 marks)**

**In relation to Joan and David which TWO of the following statements are correct?**

- The excess baggage charge is likely to be deemed enforceable as the term is transparent and prominent
- The excess baggage charge is likely to be deemed unenforceable as it fails the fairness test
- The mobile phone contract price is likely to be deemed unenforceable as it fails the fairness test
- The mobile phone contract price is likely to be deemed enforceable as it relates to the appropriateness of the price and the term is transparent and prominent



**296 CROMWELL ARMS**

Oliver was selling his inn, the Cromwell Arms, and Charles was considering buying it. Charles wrote to Oliver's accountant, Richard, and requested information about the annual turnover of the inn. The accountant wrote to Charles informing him that the inn's annual sales were 'in the region of £200,000', adding that the information was given without any responsibility on his part.

Charles purchased the inn and subsequently found that although several years previously turnover had once approached £200,000, generally it was about £150,000 a year.

**Task 1 (2 marks)**

**Which of the following TWO statements are correct?**

- There is no need to show a loss has been made to make a claim for negligence
- There must have been a loss made to make a claim in negligence
- There must be a causal link to make a claim for negligence
- There is no need to show a causal link to make a claim for negligence

**Task 2 (2 marks)**

**Which of the following types of loss is normally not recoverable in a negligence action?**

- Loss as a result of personal injury
- Damage to property
- Financial loss directly connected to personal injury
- Pure financial loss

**Task 3 (2 marks)**

**Which of the following TWO statements are correct?**

- The accountant owes a duty of care to Charles
- The accountant does not owe a duty of care to Charles
- The accountant will be liable for the losses which Charles has suffered
- The accountant will not be liable for the losses which Charles has suffered

**EMPLOYMENT LAW****297 FINE LTD (A)**

Fine Ltd specialises in providing software to the financial services industry. It has two offices, one in Edinburgh and the other, its main office, in London. In January 20X3 Gus was employed as a software designer attached to the Edinburgh office. However, by May 20X5, Gus was informed that he was to be transferred to the head office in London, which is more than 350 miles from his usual workplace.

Gus refused to accept the transfer on the basis that he had been employed to work in Edinburgh not London. Consequently, on 1 June 20X5 he wrote to Fine Ltd terminating his contract with them.

**Task 1****(2 marks)****Which of the following TWO statements are correct?**

- A claim for unfair dismissal is a common law action
- A claim for unfair dismissal is a statutory right
- A claim for unfair dismissal will be brought to an employment tribunal
- A claim for unfair dismissal must be brought to the County Court or High Court

**Task 2****(2 marks)****Which of the following TWO statements regarding constructive dismissal are correct?**

- It is where the employee breaches the contract
- It is where the employer breaches the contract
- The employee resigns as a result of the breach of contract
- The employee agrees to accept the termination of employment without payment in lieu of notice

**Task 3****(2 marks)****Which of the following TWO statements are correct?**

- Gus meets the minimum employment period requirement to make a claim for unfair dismissal
- Gus does not meet the minimum employment period requirement to make a claim for unfair dismissal
- The compulsory move would give rise to a claim for unfair dismissal
- The compulsory move would not give rise to a claim for unfair dismissal

**298 EVE AND FRED (A)****Background**

Dan operated a business providing statistical analysis in the financial services sector. Eve and Fred have both worked for Dan for three years. Eve's contract included the words "contract for services", whereas Fred's contract stated it was a "contract of service". Eve submits monthly invoices to Dan, and receives payment gross via the purchase ledger. Fred is also paid gross, however for ease of administration he submits a monthly timesheet and is paid via the payroll system.

Dan provides all of their specialist computer equipment and software. Eve was required to work solely on the projects Dan provided, and she had to attend Dan's premises every day from 9 am until 5 pm.

Fred, on the other hand, usually worked at home and was allowed to work on other projects. Fred could even arrange for his work for Dan to be done by someone else if he was too busy to do it personally.

**Task 1****(4 marks)**

For both Eve and Fred, identify which of the following factors indicate they are self-employed.

	Contract Wording	Method of Payment	Right of Substitution	Control
Eve				
Fred				

**Task 2****(2 marks)**

Based on all the factors set out above, identify the most likely employment status of Eve and Fred.

	Employed	Self-Employed
Eve		
Fred		

## THE FORMATION AND CONSTITUTION OF BUSINESS ORGANISATIONS

### 299 ELAINE

Daniel is Elaine's friend. Elaine owns a toy business. One day whilst shopping for toys Daniel sees some goods which he thinks would be suitable for Elaine's business. He negotiates with Fred to buy some of these goods for himself and he thinks Elaine would be interested in buying some of Fred's goods too. Elaine is not answering her phone so Daniel cannot confirm with her that she authorises him to go ahead and buy the goods on her behalf.

Daniel goes ahead and makes the purchase on Elaine's behalf. When he purchases the goods he informs Fred he is purchasing them on Elaine's behalf.

**Task 1****(2 marks)**

With regards to an agency relationship which of the following statements is correct?

- The contract is made between the principal and the agent
- The contract is made between the principal and the third party
- The contract is made between the agent and the third party
- A binding contract cannot be created

**Task 2****(2 marks)**

Assuming Elaine agrees to buy the goods, which agency relationship has been established?

- Express agreement
- Implied agreement
- By ratification
- By estoppel

**Task 3****(2 marks)****Which of the following TWO statements are correct in relation to ratification?**

- Any contract can be ratified
- Elaine does not need to have been identified when Daniel made the purchase
- Elaine needs to ratify the whole contract
- Elaine must have the contractual capacity to make the contract

**300 BLACK SHILLING****Background**

Aarav instructs Joey to locate a specific rare coin called a 'Black Shilling.' For simply locating this coin, Joey will be paid £1,000, although no contract is drawn up. To aid in the search and to convince prospective sellers that Aarav is a serious coin-collector, Aarav gives Joey a 'White Shilling' from his collection to display to prospective sellers. Joey locates a seller, a contract is concluded and Aarav acquires the 'Black Shilling.'

Aarav has yet to pay Joey, but is requesting that his 'White Shilling' be returned.

**Task 1****(2 marks)****In the above situation, which of the following best describes the agency relationship between Aarav and Joey?**

- There is an agency relationship by ratification
- There is an agency relationship by express agreement
- There is an agency relationship by implied agreement
- There is an agency relationship by necessity

**Task 2****(4 marks)****In the event that Aarav refuses to pay Joey, which of the following statements are true or false?**

	True	False
As an agent, Joey has the right to claim remuneration for the service he has performed, which was agreed at £1,000		
Joey has the right to exercise a lien over the 'White Shilling' in his possession		
Joey has no right to exercise a lien over the 'White Shilling', as he is in breach of his fiduciary duties towards Aarav		
Joey has the right to claim £1,000 remuneration from the seller of the 'Black Shilling'		

**301 HAM, SAM AND TAM (A)****Background**

Ham, Sam and Tam formed a partnership to run a petrol station. Ham is the senior partner, having originally established the business. The partnership agreement expressly stated that the partnership business was to be limited exclusively to the sale of petrol.

In January 2008 Sam received £10,000 from the partnership's bank, drawn from its overdraft facility. He told the bank that the money was to finance a short-term partnership debt but in fact he used the money to pay for a round the world cruise. In February Tam entered into a £15,000 contract on behalf of the partnership to buy some used cars, which he hoped to sell from the garage forecourt.

**Task 1****(4 marks)**

In respect of the above, identify which of the following statements are true or false.

	True	False
Sam has acted within his implied authority as a partner to borrow money on the credit of the firm		
Tam's purchase of the used cars was within the express provision of the partnership agreement		
Tam's purchase of the used cars is likely to be within the implied authority of a partner in a garage business		
Sam has used his powers for an unauthorised purpose, and therefore exceeded his express authority		

**Task 2****(2 marks)**

Who is liable for the £10,000 bank debt taken out by Sam?

- Sam only
- Ham only
- Sam and Tam only
- Ham, Sam and Tam

**302 GEO, HO AND IO (A)****Background**

Geo, Ho and Io formed a partnership three years ago to run a hairdressing business. They each provided capital to establish the business as follows:

Geo           £20,000

Ho            £12,000; and

Io            £8,000.

The partnership agreement stated that all profits and losses were to be divided in proportion to the capital contribution.

Unfortunately the business was not successful and the partners decided to dissolve the partnership rather than risk running up any more losses. At the time of the dissolution of the partnership its assets were worth £20,000 and its external debts were £7,000.

**Task 1****(4 marks)**

**Based on the above facts, identify the correct allocation of the £20,000 partnership assets on dissolution.**

	<b>Creditors</b>	<b>Ho</b>	<b>Io</b>	<b>Geo</b>
£7,000				
£6,500				
£3,900				
£2,600				

**Task 2****(2 marks)**

**From whom can the creditors claim their outstanding debts?**

- Geo only
- Geo and Ho only
- Geo and Io only
- Geo, Ho and Io

**303 DON (A)**

Don was instrumental in forming Eden plc. Don commenced work on the formation on 1st October 2015; the company was issued its certificate of incorporation on 1st November 2015, and its trading certificate on 10th November 2015. The company began trading on 1st December 2015.

It has subsequently come to the attention of the board of directors that prior to the incorporation of the company Don entered into a contract in the company's name to buy computer equipment, which the board of directors do not wish to honour.

**Task 1****(2 marks)**

**On what date did Eden Plc become a legal entity capable of entering into contracts in its own name?**

- 1st October 2015
- 1st November 2015
- 10th November 2015
- 1st December 2015

**Task 2****(2 marks)**

**In relation to liability under the pre-incorporation contract, which TWO of the following statements are true?**

- The company is not bound under the contract, but is able to ratify or formally adopt it by ordinary resolution afterwards
- Don is personally liable for the contract under common law
- Don could have avoided liability under the contract by delaying completion of the contract until Eden Plc was registered
- Don can avoid liability under the contract by insisting the original contract is discharged, and replaced with a new contract in the name of Eden Plc

**Task 3**

**(2 marks)**

**If Don had made a secret profit under the pre-incorporation contract, which of the following remedies is not available to the company?**

- Rescission of contract
- Damages for losses suffered
- Recovery of undisclosed profit
- Monetary fine for breach of promoter's duties

**304 DOC (A)**

Doc, a supplier of building materials, entered into the following transactions:

An agreement to sell some goods to a longstanding friend, Ed. The contractual document, however, actually stated that the contract was made with Ed's company, Ed Ltd. Although the materials were delivered, they have not been paid for and Doc has learned that Ed Ltd has just gone into insolvent liquidation.

Doc had employed a salesman, Fitt, whose contract of employment contained a clause preventing him, Fitt, from approaching any of Doc's clients for a period of two years after he had left Doc's employment. Doc has found out that, on stopping working for him, Fitt has started working for a company, Gen Ltd, wholly owned by Fitt and is approaching contacts he had made while working for Doc.

**Task 1**

**(2 marks)**

**Which of the following TWO are not considered to be a separate legal entity?**

- A sole trader
- A general partnership
- A limited liability partnership
- A public company

**Task 2**

**(2 marks)**

**Which of the following is NOT a consequence of Ed Ltd being a separate legal entity?**

- The shareholders of Ed Ltd are liable for the company's debts
- Ed Ltd can enter into contracts in its own name
- Ed Ltd owns property in its own name
- Ed Ltd has perpetual succession

**Task 3**

**(2 marks)**

**Which of the following TWO statements are correct?**

- Doc can take action against Ed personally
- Doc cannot take action against Ed personally
- Doc can enforce the restraint of trade clause against Fitt
- Doc cannot enforce the restraint of trade clause against Fitt

**305 GLAD LTD (A)****Background**

Fred is a member of Glad Ltd, a small publishing company, holding 100 of its 500 shares. The other 400 shares are held by four other members.

It has recently become apparent that Fred has set up a rival business to Glad Ltd and the other members have decided that he should be expelled from the company. To that end they propose to alter the articles of association to include a new power to 'require any member engaging in competition with Glad Ltd to transfer their shares for fair value to the other members upon the passing of a resolution so to do'.

**Task 1 (2 marks)**

**In relation to the vote required to amend Glad Ltd's articles, which of the following statements is false?**

- The company must call a general meeting of shareholders
- A special resolution is required to approved the alteration
- Fred is entitled to attend the meeting, but is not permitted to vote
- If the resolution is passed, a copy of the amended articles must be submitted to the Registrar of Companies within 15 days

**Task 2 (2 marks)**

**In relation to the common law restrictions on altering a company's articles, which TWO of the following statements are correct?**

- The proposed alteration is likely to succeed on the basis that it is in the bona fide interests of the company as a whole
- The proposed alteration is likely to fail on the basis it is unfairly prejudicial to minority shareholders
- The proposed alteration is likely to fail on the basis it breaches the Human Rights Act 1998
- Fred is unable to block the resolution as he has insufficient votes to do so

**Task 3 (2 marks)**

**Which of the following statements regarding the contractual effect of a company's articles is correct?**

- The articles have no contractual effect
- A company is bound by the articles. Shareholders have binding obligations but no rights under the articles.
- A company's articles are legally binding between company and its shareholders, and shareholders with each other
- Employment rights contained in the articles are legally binding



## CAPITAL AND THE FINANCING OF COMPANIES

### 306 FAN PLC (A)

Dee and Eff are major shareholders in, and the directors of, the public company, Fan plc. For the year ended 30 April 2009 Fan plc's financial statements showed a loss of £2,000 for the year.

For the year ended 30 April 2010 Fan plc made a profit of £3,000 and, due to a revaluation, the value of its land and buildings increased by £5,000.

As a consequence, Dee and Eff recommended, and the shareholders approved, the payment of £4,000 in dividends.

#### Task 1 (2 marks)

Which of the following TWO statements are correct?

- Distributable profits is defined as accumulated realised profits less realised losses
- Distributable profits is defined as accumulated realised profits less accumulated realised losses
- A revaluation surplus is included within accumulated realised profits
- A revaluation surplus is not included within accumulated realised profits

#### Task 2 (2 marks)

Identify which of the following documents would have been required to be submitted to Companies House when Fan Plc was registered?

	Required	Not required
Memorandum of association		
Application for registration		
Articles of association		
Statement of guarantee		

#### Task 3 (2 marks)

Which of the following TWO statements are correct?

- The company could recover the distribution from Dee and Eff
- The company could not recover the distribution from Dee and Eff
- The company could recover the distribution from other shareholders
- The company could not recover the distribution from other shareholders

**307 JUDDER LTD (A)****Background**

Hank is a director in Judder Ltd, which has an authorised and issued capital of 100,000 shares at a nominal value of £1. It has not traded profitably and has consistently lost capital for a number of years. Although the company has shown a profit on its current year's trading, its accounts still show a deficit of £50,000 between assets and liabilities. The board of directors thinks it would be beneficial if the company were to write off its previous losses and to that end are looking to reduce its share capital by £50,000.

**Task 1****(4 marks)**

**Which of the following procedures are required of private (Ltd) and public (Plc) companies, to reduce their share capital?**

	<b>Ltd Only</b>	<b>Plc Only</b>	<b>Both</b>
Pass Special Resolution			
Produce a Solvency Statement			
Settle a list of creditors entitled to object			
File documents within 15 days of resolution			

**Task 2****(2 marks)**

**According to the Companies Act 2006, which of the following is not a lawful ground for a company to reduce its share capital?**

- To reduce or cancel liabilities on partly-paid shares
- To finance a dividend payment to shareholders
- To return capital in excess of the company's needs
- To cancel the paid-up capital that is no longer represented by its assets

**308 FIN (A)****Background**

Two years ago Fin inherited £40,000 and decided to invest the money in company shares. He heard that Heave 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 50 pence per share. Fin thought the offer was too good to miss and he subscribed for 20,000 new shares. However, the additional capital raised in this way did not save the company and Heave Ltd has gone into insolvent liquidation, owing a considerable sum of money to its unsecured creditors.

**Task 1****(4 marks)**

**In relation to Heave Ltd's share issue, identify which of the following actions are lawful or unlawful.**

	Lawful	Unlawful
Issue at 50p, fully paid, as described above		
Issue at par value, fully paid		
Issue at par value, 50p paid up		
Issue at market value, when market price is 80p		

**Task 2****(2 marks)**

**What best describes Finn's liability for the debts of Heave Ltd on winding up?**

- Finn will be required to pay £10,000 plus interest at an appropriate rate
- Finn will be required to pay £20,000 plus interest at an appropriate rate
- Finn will be required to pay £10,000 only
- Finn will be required to pay £20,000 only

**309 INHERITANCE (A)**

Under the will of her late uncle, Clare has just inherited the following:

- (a) £10,000 of ordinary shares in A Ltd.
- (b) £5,000 of preference shares in B Ltd.
- (c) £5,000 debenture stock secured by a fixed charge against the assets of D plc
- (d) £5,000 debenture stock secured by a floating charge against the business and assets of E plc.

**Task 1****(2 marks)**

**In relation to the above investment forms, which is the most secure?**

- Ordinary shares
- Preference shares
- Debenture stock secured by fixed charge
- Debenture stock secured by floating charge

**Task 2****(2 marks)**

**In relation to the above investment forms, which may have a cumulative right to dividends?**

- Ordinary shares
- Preference shares
- Debenture stock secured by fixed charge
- Debenture stock secured by floating charge

**Task 3****(2 marks)**

**In relation to the above investment forms, which normally participates in surplus capital?**

- Ordinary shares
- Preference shares
- Debenture stock secured by fixed charge
- Debenture stock secured by floating charge

**310 HO (A)****Background**

Three years ago Ho subscribed for shares in two companies: Ice Ltd and Jet plc. In relation to the shares in Ice Ltd, Ho was only required to pay 50 pence per £1 share when he took the shares and was assured that he would not be required to make any further payment on them to Ice Ltd and the company passed a resolution to that effect. Unfortunately, Ice Ltd has gone into insolvent liquidation owing a substantial sum of money to its creditors.

In relation to the shares in Jet plc, Ho was required to pay £1.50 per £1 share.

**Task 1****(4 marks)**

**In relation to Ho's investments and the respective price paid for his shares, identify the type of share issue and whether it is lawful or unlawful.**

	Issue at Discount	Issue at Premium	Lawful	Unlawful
Ice Ltd				
Jet Plc				

**Task 2****(2 marks)**

**According to the Companies Act 2006, which of the following is not a permitted use of a company's Share Premium Reserve?**

- To pay up bonus shares to be allotted as fully paid to members
- To write off the expenses, commission or discount incurred in any issue of shares or debentures of the company
- To finance a reduction in share capital
- To pay for the premium payable on redemption of debentures

## MANAGEMENT, ADMINISTRATION AND REGULATION OF COMPANIES

### 311 FRAN, GILL AND HARRY (A)

In 2010 Fran, Gill and Harry formed a private limited company, Compuware Design Limited, to pursue the business of computer software design. They each took 100 shares in the company and each of them became a director in the new company. The articles of association of the company were drawn up to state that Fran, a qualified lawyer, was to act as the company's solicitor for a period of five years, at a salary of £10,000 per year.

In 2015 Gill and Harry found out that Fran had been working with a rival software company and has passed on some secret research results to that rival.

#### Task 1 (2 marks)

Which of the following TWO statements are correct?

- The articles of association are enforceable by the company against the members
- The articles of association are not enforceable by the members against the company
- The articles of association bind the company to members in any capacity
- The articles of association do not bind the company to members in any other capacity

#### Task 2 (2 marks)

Which of the following TWO statements are correct?

- Compuware Design Limited's articles of association can be altered by an ordinary resolution
- Compuware Design Limited's articles of association can be altered by a special resolution
- Fran can be removed from her position as a director by an ordinary resolution with special notice
- Fran can be removed from her position as a director by a special resolution with special notice

#### Task 3 (2 marks)

Which of the following TWO statements are correct?

- Fran cannot rely on the articles of association for her to remain as the company's solicitor
- Fran can rely on the articles of association for her to remain as the company's solicitor
- Gill and Harry cannot remove Fran from her role as company director
- Gill and Harry can remove Fran from her role as company director

**312 KING LTD (A)****Background**

King Ltd is a property development company. Although there are five members of its board of directors, the actual day-to-day running of the business is left to one of them, Lex, who simply reports back to the board on the business he has transacted. Lex refers to himself as the Managing Director of King Ltd, although he has never been officially appointed as such.

Six months ago, Lex entered into a contract on King Ltd's behalf with Nat to produce plans for the redevelopment of a particular site that it hoped to acquire. However, King Ltd did not acquire the site and due to its current precarious financial position, the board of directors have refused to pay Nat, claiming that Lex did not have the necessary authority to enter into the contract with him.

**Task 1****(2 marks)**

**Which of the following statements best describes the authority of directors to bind a company in contract?**

- Authority vests in the board of directors collectively
- Authority vests in the membership, and directors must seek authority by ordinary resolution of members
- Authority vests in the membership, and directors must seek authority by special resolution of members
- Individual directors have authority to make contracts that they believe are in the company's best interests

**Task 2****(2 marks)**

**Which of the following statements best describes Lex's authority to enter into contracts?**

- Lex has express authority from the company's Articles
- Lex has implied authority as an ordinary director
- Lex has apparent authority due to being held out as managing director
- Lex has no authority

**Task 3****(2 marks)**

**In relation to the contract with Nat, which of the following statements is correct?**

- Lex is personally liable under the contract
- King Ltd is liable under the contract
- Lex and King Ltd are jointly and severally liable under the contract
- No one is liable under the contract, since it is void

**313 CLEAN LTD (A)**

Clean Ltd was established some five years ago to manufacture industrial solvents and cleaning solutions, and Des was appointed managing director.

The company's main contract was with Dank plc a large industrial conglomerate. The managing director of Dank plc is a friend of Des's and has told him that Dank plc will not be renewing its contract with Clean Ltd as he is not happy with its performance. He also told Des that he would be happy to continue to deal with him, if only he was not linked to Clean Ltd.

Following that discussion Des resigned from his position as managing director of Clean Ltd and set up his own company, Flush Ltd which later entered into a contract with Dank plc to replace Clean Ltd.

**Task 1 (2 marks)**

**What statutory duty is Des most likely to have breached as managing director of Clean Ltd?**

- S.172 – Duty to promote the success of the company
- S.173 – Duty to exercise independent judgement
- S.174 – Duty to exercise reasonable care, skill and diligence
- S.175 – Duty to avoid conflicts of interest

**Task 2 (2 marks)**

**What should Des have done to avoid being in breach of his statutory duties as director?**

- Des should have declared the full extent of his relationship with Dank plc, and sought approval from the board
- Des should have ceased his friendship with the managing director of Dank plc
- Des should have waited at least twelve months before taking on the contract with Dank plc
- Des should signed the contract in his own name, rather than in the name of Flush Ltd

**Task 3 (2 marks)**

**What remedy is Clean Ltd most likely to seek in relation to Des' breach?**

- Damages for loss suffered
- An account of any profits made by Des on the contract between Flush Ltd and Dank plc
- Rescission of contract between Flush Ltd and Dank plc
- Compulsory winding up of Flush Ltd

**314 GOAL LTD (A)****Background**

Goal Ltd is a property development company, with four directors. One of the directors, Hope, took the role and title of chief executive, although he was never formally appointed to the role. The other three directors left the day-to-day running of the business to Hope and were happy simply to receive feedback from him at board meetings.

Six months ago Hope entered into a contract, on Goal Ltd's behalf, with Ima to produce plans for the redevelopment of a particular site that it hoped to acquire. However, Goal Ltd did not acquire the site and due to its current precarious financial position and their fear of potential losses, the board of directors has refused to pay Ima, claiming that Hope did not have the necessary authority to enter into the contract with her.

**Task 1****(4 marks)**

**With regards to the above, identify which of the following statements are true or false?**

	True	False
Hope acted within his express authority		
Hope acted within the apparent authority of Chief Executive		
The contract with Ima is not legally binding because authority to contract vests solely with the board of directors, collectively		
A Chief Executive has the implied authority to make commercial contracts		

**Task 2****(2 marks)**

**Which of the following is not a source of authority for a director?**

- The Articles of Association
- The Companies Act 2006
- Common Law
- Membership of a Professional Accounting Body

**315 DO PLC (A)**

Chu, a suitably qualified person, was appointed as the company secretary of Do plc. Since his appointment, Chu has entered into the following contracts in the name of Do plc:

- (a) an extremely expensive, long-term contract with Ex plc for the maintenance of Do plc's photocopiers
- (b) an agreement to hire taxis from Far plc which Chu used for his own, non-business related purposes

The directors of Do plc have only recently become aware of these contracts.



**Task 1****(2 marks)****Which of the following TWO statements are correct?**

- Every company must have a qualified company secretary
- A public company must have a qualified company secretary
- The company secretary is usually appointed and removed by the members
- The company secretary is usually appointed and removed by the directors

**Task 2****(2 marks)****Which of the following TWO statements are correct?**

- Chu has express authority as stated in the articles of association
- Chu has express authority as delegated by the board
- Chu has implied authority regarding contracts of a commercial nature
- Chu has implied authority regarding contracts of an administrative nature

**Task 3****(2 marks)****Which of the following statements is correct?**

- Both the agreements are binding on Do plc
- Neither of the agreements are binding on Do plc
- Only the contract for the maintenance of the photocopiers is binding on Do plc
- Only the contract to hire taxis for personal use is binding on Do plc

**316 KUT LTD (A)****Background**

Kut Ltd is a small private company. Although there are three members of its board of directors, the actual day-to-day running of the business is left to Leo, who simply reports back to the board on the business he has carried out. Leo refers to himself as the chief executive officer of Kut Ltd, although he has never been officially appointed as such.

In October 2016, Leo entered into a normal business contract on Kut Ltd's behalf with Max. However, the other members of the board have subsequently lost confidence in Leo and have refused to pay Max, claiming that Leo did not have the necessary authority to enter into the contract with him.

**Task 1****(4 marks)****Identify whether the following statements are true or false.**

	True	False
The board has held-out Leo as their chief executive and consequently Kut Ltd are bound by any contracts he makes within the scope of a chief executive's implied authority		
The contract with Max is outside the scope of a chief executive's implied authority		
By referring to himself as chief executive, without being formally appointed to the role, Leo is in breach of his statutory duties as director		
Leo and Kut Ltd are jointly and severally liable under the contract with Max		

**Task 2****(2 marks)****What type of director is typically a part time advisory role?**

- Managing director
- Executive director
- Non-executive director
- Chairman

**INSOLVENCY****317 MAT, MARY AND NORM (A)**

On the advice of his accountant, Mat registered a private limited company to conduct his small manufacturing business in January 2010. One of the reasons for establishing the company was to avoid liability for potential losses. The initial shareholders of the company were Mat, his wife Mary, and her father Norm, who each took 1,000 shares in the company, each with a nominal value of £1. The accountant explained that they did not have to pay the full nominal value of the shares at once, so they each paid only 25 pence per share taken, with the result that they still owed the company a further 75 pence per share to be paid at a later date.

Unfortunately the business has not proved successful and Mat and Mary have decided that it is better to liquidate the company rather than run up any more debts. The current situation is that the company's land is worth £20,000 and it has a fixed charge of £20,000 secured against it. It has further assets to the value of £7,750, but it has debts to business creditors of £10,000 and owes the bank a further £10,000 on its bank overdraft. The liquidator's fee will be £2,000.

**Task 1****(2 marks)****Which of the following TWO statements are correct?**

- The shares can be treated as fully paid up
- The shares are treated as partly paid
- Mat, Mary and Norm are not required to contribute any further
- Mat, Mary and Norm will need to provide a further £750 each

**Task 2****(2 marks)**

**The winding up will be a creditors' voluntary liquidation. Identify whether the following statements are true or false.**

	True	False
A special resolution will be passed		
A declaration of solvency will be made		
A statement of affairs will be submitted		
A physical meeting of creditors must be held within 21 days		

**Task 3****(2 marks)****Identify the order in which the debts will be repaid**

	<b>1st</b>	<b>2nd</b>	<b>3rd equal</b>
Business creditors			
Bank overdraft			
Fixed charge			
Liquidator's expenses			

**318 ADMINISTRATION****Background**

Bouncy Time Ltd is a nationwide soft play hire company. The company leased additional new equipment and vehicles four months ago in order to meet an expected increase in demand. The total cost of leasing on a monthly basis amounts to £15,000 and there are further overhead and staff costs of £5,000. Unfortunately the level of demand expected has not materialised. Bouncy Time Ltd is generating about £10,000 a month in revenue.

The board of directors are concerned about the state of the business and are considering the possibility of putting the company into administration.

**Task 1****(2 marks)**

**Based on the above, which of the following would be the main purpose of putting Bouncy Time Ltd into administration?**

- To rescue the company financially with the aim of allowing it to continue as a going concern
- To achieve a better result for the company's creditors than would be achieved by winding up
- To oversee the sale of high-value assets and repay secured creditors
- To avoid staff being made redundant

**Task 2****(4 marks)**

**With regards to the consequences of administration, identify which of the following statements are true or false.**

	<b>True</b>	<b>False</b>
The rights of creditors to enforce security over the company's assets are suspended		
Any outstanding petition for winding up is dismissed		
The board of directors retain full authority throughout the period of administration		
A special resolution of members is required to halt the administration and wind up the company		

**319 LIVERTON****Background**

Liverton Ltd is a private company that operates a long established and successful football club Liverton FC.

Due to poor performance by the football club in recent years, the company has experienced falling revenues from ticket sales and merchandise. At the same time the company is incurring significant costs in players' wages and debt interest.

The board of directors are concerned that if the current financial situation continues, then the club will only be able to survive another 12 months. This is something the directors desperately wish to avoid, and are now considering all possible options to help them save the company.

**Task 1 (4 marks)**

**Identify whether the following statements are relevant to companies in administration, or liquidation.**

	Administration	Liquidation
The purpose is to bring a company to an end, and repay creditors		
The purpose is to rescue the company so that it continues to trade as a going concern		
Requires a special resolution of members		

**Task 2 (2 marks)**

**If Liverton Ltd is placed into administration, which of the following would be a consequence for the board of directors?**

- All directors are immediately dismissed and replaced with new appointees
- All directors continue in office for the duration of the administration, but their powers are suspended
- Half of the company directors are replaced with licensed insolvency practitioners
- The board of directors continue to operate, with full authority

**320 BRASSICK LTD****Background**

Brassick Ltd has recently appointed an administrator to help secure its rescue from financial difficulties.

Despite the administrator now managing the day-to-day affairs of the company, the directors have continued to receive contact from various concerned parties.

- Saeed is a fixed charge creditor of the company, and is demanding that his loan is repaid or he will seize possession of the asset under charge.
- Malcolm is a supplier who is owed £1,200. He handed a formal written demand for the amount due to one of the directors, and threatened to petition for a winding up of the company if the debt is not settled within 3 weeks.
- Brian, a very unhappy shareholder, is threatening to gain support from other shareholders to force a winding up of the company.

The directors are unsure how these matters will affect the ongoing administration of the company.

**Task 1** (4 marks)

**With regards to above actions, identify whether they are likely to succeed whilst Brassick Ltd is under administration.**

	Will succeed	Will not succeed
Saeed		
Malcolm		
Brian		

**Task 2** (2 marks)

**What is the time period in which an administration must normally be completed?**

- Three months
- Nine months
- Twelve months
- Two years

### 321 WINSTON LTD

#### Background

The directors of Winston Ltd have recently appointed an administrator to help rescue the company from its financial difficulties.

The directors are aware that a consequence of administration is that the powers of the board are suspended and the administrator assumes the day-to-day management of the company.

However, the directors are unsure whether they are legally required to make any parties aware of the appointment.

**Task 1** (4 marks)

**Which of the following are legal requirements of an administrator regarding their appointment?**

	Required	Not required
They must publish a notice of appointment in the London Gazette and in a newspaper in the area where Winston Ltd has its principal place of business		
They must obtain a full list of Winston Ltd's creditors and send notice of appointment to each of them		
They must obtain a full list of Winston Ltd's employees and send notice of appointment to each of them		
They must ensure that every business document bears their identity as administrator, and that he/she is managing the affairs, business and property of the company.		

**Task 2****(2 marks)****What is the time limit for notifying the Registrar of the appointment of an administrator?**

- Within 7 days of appointment
- Within 14 days of appointment
- Within 21 days of appointment
- Within 30 days of appointment

**322 MICHAEL****Background**

Michael has approached you for advice in respect of the following companies in which he is a majority shareholder:

- Jordan plc was incorporated as a public company 11 months ago, however due to administrative problems within the company it has not yet obtained a trading certificate.
- Cable Ltd was incorporated as a private company 18 months ago, but for commercial reasons has never commenced business. The company will remain dormant for the foreseeable future.

**Task 1****(4 marks)**

**In relation to the above companies, identify whether the following statements are true or false.**

	True	False
There are grounds for the compulsory liquidation of Jordan plc on the basis they have failed to obtain a trading certificate within six months of being incorporated		
Jordan plc has one month left to obtain a trading certificate, before there is grounds for compulsory liquidation		
The fact that Cable Ltd has not commenced business within a year of being incorporated, is ground for compulsory liquidation of the company		
As a private company, Cable Ltd has two years to commence business before there are grounds for compulsory liquidation of the company		

**Task 2****(2 marks)**

**In the event of a compulsory liquidation, what is the time limit for the Official Receiver to summon a meeting of contributories to appoint a liquidator?**

- Within six weeks
- Within three months
- Within six months
- Within twelve months

**323 HURST LTD****Background**

Paul is the sole shareholder of Hurst Ltd, a private trading company.

Recently the company entered into financial difficulties, resulting in a number of suppliers being paid late, or in some instances not paid at all.

One of the company's suppliers Rex plc is owed £2,000. They served a formal written demand on Hurst Ltd 6 weeks ago, but the amount still remains unpaid. Accordingly, in order to recover the amount due, the directors of Rex plc have been left with no option but to petition the court for a compulsory liquidation of Hurst Ltd.

**Task 1****(2 marks)**

**On what grounds can Rex plc petition for the compulsory liquidation of Hurst Ltd?**

- Hurst Ltd has not been issued with a trading certificate
- Just and equitable grounds
- Inability to pay debts to a creditor exceeding £500
- Inability to pay debts to a creditor exceeding £750

**Task 2****(4 marks)**

**In the event that Hurst Ltd is placed into compulsory liquidation, identify whether the following statements are true or false.**

	True	False
Any floating charges crystallise		
The company will cease to carry on all business		
All employees are automatically made redundant		
Directors remain in office, but their powers cease		

**324 SAMI LTD****Background**

During 2015, Sami Ltd entered into the following transactions in an attempt to sustain its operation:

- It borrowed £100,000 from Giles, secured by a fixed charge created on 15 April. Giles assured Sami Ltd he would register the charge, but never did so.
- It borrowed £200,000 from Martyn, secured by a floating charge. The floating charge was created on 1 May and it was registered on 12 May.
- It borrowed £250,000 from Glenn. This loan was secured by fixed charge created on 6 May and registered on 18 May.
- It borrowed £150,000 from a bank. This loan was secured by a fixed charge. It was created on 10 May and registered on 15 May.

Unfortunately this attempt to sustain its operation failed, and in September 2016 compulsory liquidation proceedings were begun. Initial estimates indicate it is highly unlikely that the company has sufficient assets to repay all of the above debts.

**Task 1****(4 marks)****Rank the above creditors in order of priority.**

	1st	2nd	3rd	4th
(a) Giles				
(b) Martyn				
(c) Glenn				
(d) Bank				

**Task 2****(2 marks)****What is the time limit for registering a charge, from the date of creation?**

- 7 days
- 14 days
- 21 days
- 28 days

**325 PARK LTD****Background**

Park Ltd is a private trading company registered in 2001. The company has enjoyed success through the years, but now the shareholders believe it is the right time to discontinue the operation, and bring the company to end.

The company has net assets of approximately £800,000, and its only liability is a secured bank loan of £50,000.

**Task 1****(2 marks)****In relation to the above, which TWO of the following statements are correct?**

- Park Ltd will dissolve by a members' voluntary liquidation
- Park Ltd will dissolve by a creditors' voluntary liquidation
- Winding up commences on the passing of a special resolution by members of Park Ltd
- Winding up commences on the passing of an ordinary resolution by members of Park Ltd

**Task 2****(4 marks)****Identify whether the following statements are true or false.**

	True	False
In a members' voluntary liquidation, creditors will appoint a licensed insolvency practitioner		
Once a members' liquidation commences, it is not possible to later convert it to a creditors' liquidation		
Liquidator's expenses are repaid after secured creditors but before members		
A company is dissolved 3 months after liquidation		



**326 STRINE LTD****Background**

Strine Ltd is a private company manufacturing garden furniture. The company is financed by way of £200,000 of ordinary share capital, and a long-term bank loan of £800,000, which is secured by a fixed charge over the company's head office premises.

Since it began trading the company has always made modest profits. However in recent months they have experienced financial difficulties due to falling sales revenues and higher raw materials costs. As a consequence of this, the company has defaulted on its last 2 loan interest payments, and now the bank is very concerned about their ability to repay the outstanding loan.

On closer inspection of the company's accounts, the bank discovers that Strine Ltd is insolvent, and they now intend to proceed with a creditors' voluntary liquidation.

**Task 1 (2 marks)**

**In relation to the fixed charge, above, which TWO of the following statements are correct?**

- Strine Ltd cannot sell their head office premises without permission from the bank
- In the event of winding up, the bank loan will be repaid in priority to ordinary shareholders
- The bank loan can be converted into ordinary share capital at the discretion of the bank
- The fixed charge will be invalid if it was not registered within 14 days of creation

**Task 2 (4 marks)**

The Insolvency Act 1986 sets out the formal procedures required for a creditors' voluntary liquidation.

**With regards to those procedures, identify whether the following statements are true or false.**

	True	False
Winding up commences on the passing of a special resolution by members of Strine Ltd		
A physical meeting of creditors is held within 21 days of the appropriate resolution being passed		
The directors of Strine Ltd must submit a statement of the company's affairs		
A licensed insolvency practitioner is appointed by the creditors of Strine Ltd		

## CORPORATE FRAUDULENT AND CRIMINAL BEHAVIOUR

### 327 KEN (A)

#### Background

Ken is involved in illegal activity, from which he makes a considerable amount of money. In order to conceal his gain from the illegal activity, he bought a bookshop intending to pass off his illegally gained money as profits from the legitimate bookshop business. Ken employs Mel as his accountant to produce false business accounts for the bookshop business.

#### Task 1

(2 marks)

The process of Ken channelling proceeds of crime through the bookshop, is known as what?

- Placement
- Layering
- Integration
- Insider Dealing

#### Task 2

(2 marks)

By producing false business accounts for Ken's bookshop business, what criminal offence is Mel committing, according to the Proceeds of Crime Act 2002?

- Insider Dealing
- Failure to Report
- Laundering
- Tipping Off

#### Task 3

(2 marks)

What is the maximum period of imprisonment for the following Money Laundering offences?

	2 years	5 years	14 years
Laundering			
Failure to Report			
Tipping Off			

### 328 SID AND VIC (A)

Sid is a director of two listed public companies in which he has substantial shareholdings: Trend Plc and Umber Plc.

The annual reports of Trend Plc and Umber Plc have just been drawn up although not yet disclosed. They show that Trend Plc has made a surprisingly big loss and that Umber Plc has made an equally surprising big profit. On the basis of this information Sid sold his shares in Trend Plc and bought shares in Umber Plc. He also advised his brother, Vic, to buy shares in Umber Plc.

**Task 1**

**(2 marks)**

**Which of the following TWO statements are correct?**

- Sid is an insider because he receives the information from his position of a director
- Sid cannot be an insider as directors are excluded from the definition
- The information is not inside information as it will be made public within the next six months
- The information is inside information as it relates to particular securities, is specific and has not yet been made public

**Task 2**

**(2 marks)**

**Which of the following TWO statements are correct?**

- Sid is not guilty of an offence of insider dealing by selling his shares in Trend plc
- Sid is guilty of an offence of insider dealing by buying shares in Umber plc
- Sid is not guilty of an offence of insider dealing when he advises his brother to buy shares in Umber plc
- Sid is guilty of an offence of insider dealing when he advises his brother to buy shares in Umber plc

**Task 3**

**(2 marks)**

**Which of the following TWO statements are correct?**

- Vic has not committed an offence as he did not receive any specific information from Sid which encouraged him to buy the shares in Umber plc
- Vic has committed an offence as he has an indirect interest in Umber plc
- There are no defences to insider dealing
- It is a defence if it can be shown that there was no expectation of profit from the dealing

**329 IRE LTD (A)**

Fran and Gram registered a private limited company Ire Ltd in January 2005 with a share capital of £300, which was equally divided between them, with each of them becoming a director of the company.

Although the company did manage to make a small profit in its first year of trading, it was never a great success and in its second year of trading it made a loss of £10,000.

At that time Fran said he thought the company should cease trading and be wound up. Gram however was insistent that the company would be profitable in the long-term so they agreed to carry on the business, with Fran taking less of a part in the day-to-day management of the business, although retaining his position as a company director.

In the course of the next three years Gram falsified Ire Ltd's accounts to disguise the fact that the company had continued to suffer losses, until it became obvious that they could no longer hide the company's debts and that it would have to go into insolvent liquidation, with debts of £100,000.

**Task 1****(2 marks)****Which TWO of the following statements are correct?**

- Fraudulent trading can only be a civil action
- Fraudulent trading can be a civil action and a criminal action
- Wrongful trading can only be a civil action
- Wrongful trading can be a civil action and a criminal action

**Task 2****(2 marks)****Which TWO of the following statements are correct?**

- Fraudulent trading applies only to directors and shadow directors
- Fraudulent trading must include dishonest intent
- Gram is liable for fraudulent trading
- Fran is liable for fraudulent trading

**Task 3****(2 marks)****Which TWO of the following statements are correct?**

- Gram is liable for wrongful trading
- Fran is liable for wrongful trading
- Wrongful trading applies only to directors and shadow directors
- Wrongful trading must include dishonest intent

**330 BRIBERY****Background**

Simran works for a science laboratory called Test-it Ltd. Her role is to test new products and issue health and safety certificates before the products are sold to the public. This is a rigorous procedure and can take several weeks if not months.

Simran has just received a call from Paula, the sales director of Angad plc, a company which manufactures food storage products. Paula explains that the company will be sending over a new product for testing but need to have the health and safety certificate by tomorrow so they can launch the product before one of their competitors. Paula knows that Simran enjoys wearing designer clothing and offers to send her a voucher for £2,000 which Simran can use to buy designer clothing at a well-known department store. Simran agrees to Paula's proposal.

**Task 1****(4 marks)****Identify the Bribery offences being committed by the above individuals.**

	Simran	Paula	Test-it Ltd
s.1 bribing a person to perform a relevant function improperly			
s.2 receiving a bribe to perform a relevant function improperly			
s.7 failing to prevent bribery			

**Task 2****(2 marks)****What is the maximum penalty for individuals found guilty of a bribery offence?**

- 7 years imprisonment
- 10 years imprisonment
- 14 years imprisonment
- 21 years imprisonment

**331 NIT (A)****Background**

Nit is involved in illegal activity, from which he makes a large amount of money. He also owns a legitimate taxi company and passes off his illegally gained money as profits of that business. Nit employs Owen, who is aware of the illegal source of the money, to act as the manager of the taxi company.

Pat is Nit's accountant, and although he has no actual knowledge of the illegal activity, he is growing increasingly suspicious.

**Task 1****(2 marks)**

Money laundering usually comprises three distinct phases.

**Which of the following statements best describes the layering phase?**

- The initial disposal of the proceeds of criminal activity into an apparently legitimate business activity or property
- Money taking on the appearance of coming from a legitimate source
- The transfer of money from business to business, or place to place, in order to conceal its initial source
- Giving a false or misleading impression of the supply of, or demand for, an investment

**Task 2****(4 marks)**

**In relation to the scenario above, identify whether the following statements are true or false.**

	True	False
Nit is committing the offence of money laundering under s.327 Proceeds of Crime Act 2002		
By assisting Nit to commit money laundering, Owen is also guilty of an offence under s.327 Proceeds of Crime Act 2002		
Pat has no legal duty to disclose his suspicions of money laundering until he acquires actual proof it is taking place		
Pat must not report suspicions of money laundering without first notifying Nit and giving him a chance to explain		

## Section 3

# ANSWERS TO OBJECTIVE TEST QUESTIONS

### ESSENTIAL ELEMENTS OF THE LEGAL SYSTEM

**1 B & D**

Law created by Parliament is called statute. In the event of conflict with equity, it will be equity which prevails.

**2 C**

The others are tracks of the civil courts.

**3 C**

**4 B**

Decisions of the Supreme Court are binding on the Court of Appeal.

**5 C**

**6 A**

The ratio decidendi is binding on lower courts.

**7 B**

**8 A**

**9 C**

The 1966 Practice Statement introduced this.

**10 B**

The stages are first reading, second reading, committee stage, report stage and third reading.

**11 D**

The balance of probabilities is what is required in civil cases.

**12 A**

This is as the Supreme Court is the only court higher than the Court of Appeal.

**13 D****14 B**

Civil law is a type of private law.

**15 D**

Where the material facts differ from a previous case the precedent does not need to be followed.

**16 A & B****17 B**

Criminal law is a type of public law.

**18**

	True	False
If the common law and equity conflict, then the common law prevails		<b>X</b>
Equity was developed to introduce fairness	<b>X</b>	

In the event of conflict, equity will prevail.

**19**

	True	False
It is the body of laws that does not relate to criminal offences	<b>X</b>	
It is law created by judges through decision made in cases		<b>X</b>

The law created by judges through decisions in cases is known as case law.

**20 D**

This is where a body has acted ultra vires.

**21 D**

This is the final stage before a Bill becomes an Act.

**22 A**

Under the literal rule words are given their ordinary dictionary meaning.

**23 C**

**24 C**

**25 B**

**26 A**

**27 C**

**28 A**

**29 C**

## THE LAW OF OBLIGATIONS

**30 B**

This was established in *Fisher v Bell*.

**31 C**

Silence cannot constitute acceptance.

**32 B**

This is the postal rule.

**33 A**

A warranty is an incidental term of the contract.

**34 A**

This was established in *Curtis v Chemical Cleaning*.

**35 C**

**36 C**

Damages contained in a penalty clause will not determine damages payable.



**37 A**

Damages are a common law remedy.

**38 A**

Breach of warranty can only result in a claim for damages.

**39 C**

These are essential elements of a contract.

**40 A**

**41 A**

**42 B**

**43 C**

**44 A**

**45 A**

**46 C**

A specialty contract will be required.

**47 A**

Revocation must be communicated but does not need to be in writing.

**48 B**

**49 C**

**50 A**

This was established in *Hyde v Wrench*.

**51 A**

Agreement constitutes offer and acceptance.

**52 C**

A counter-offer was made on the 5th April which brought the offer on the 1st April to an end.

**53 B**

In *Fisher v Bell* it was established that a window display is an invitation to treat.

**54 B**

**55 C**

**56 C**

This is not a factor in determining damages.

**57 B**

**58 C**

A breach of warranty only allows for damages as a remedy.

**59 C**

Consideration must have some monetary value even if it is insufficient.

**60 B**

The limitation period for contracts made by deed is 12 years.

**61 C**

**62 A**

**63 A**

**64**

	True	False
An offer is not effective until has been communicated to the offeree	X	
An offer can be made to a particular person, to class of persons, or certain instances to the whole world.	X	

**65 A**

Goods in a shop window are an invitation to treat, as established in *Fisher v Bell*.

**66 C**

Goods on display are invitations to treat, as established in the case of *Pharmaceutical Society of GB v Boots Cash Chemists*.

**67 A**

This was established in *Stevenson v McLean*.

**68**

	True	False
An offer is terminated by rejection	X	
An offer can be terminated after acceptance		X

An offer can be revoked at any time prior to acceptance as seen in *Routledge v Grant*.

**69**

	True	False
Revocation must be communicated to the offeree	X	
Revocation can be communicated by ANY third party		X

Revocation can be communicated by a reliable third party as seen in *Dickinson v Dodds*.

**70 D**

Revocation only applies to offers.

**71 B****72 C**

The postal rule would seem to apply here, and therefore acceptance is deemed to be communicated when Stephen's letter is posted (*Adams v Lindsell*), not when received by Martin.

**73**

	True	False
Consideration must be sufficient	X	
Consideration must be adequate		X

Consideration does not need to be adequate.

**74 A****75 D****76 D**

These are three ways in which a clause can be incorporated.

**77 D**

*Bettini v Gye.*

**78 C**

The courts presume that there is no intention to be legally bound in agreements between family members. The presumption is only ignored if there is clear evidence to the contrary.

**79 C**

**80 B**

*Hochster v De La Tour.*

**81 A**

The others are equitable remedies.

**82 D**

**83 A**

**84 B**

As this is a personal service contract, specific performance would not be appropriate. Loss of bargain damages would be awarded.

**85 A**

Past consideration has no value and is therefore not consideration. Therefore there is no agreement in place and Zoe does not have to pay for the services that Tabitha provided.

**86**

	True	False
A notional deduction will not be made to reflect taxation.		X
The claimant must take reasonable steps to mitigate their loss.	X	

**87 C & D**

**88 B**

**89 A**

**90 C**

**91 A**

92 A

93 A

94 C & D

A free “app” on its own would not be purchased digital content and therefore would be outside the scope of the Act. The private seller at a car boot sale would not constitute a trader under the definition in the Act.

95 C

As more than thirty days has passed since purchase an immediate refund would not be automatically available under the Act.

96 B

97 B

98 A

Damages will be reduced by a percentage determined by court.

99 C

This was established in *Caparo v Dickman plc*.

100 D

This is not one of the three tests which need to be satisfied.

101 B

The defendant’s intent is not a relevant factor.

102 A

103 A

104 C

105 C

A higher level of care is owed to children.

106 A

This is the concept of special relationship.

107 B

**108 A**

**109 D**

**110 B**

**111 B**

**112 B**

**113 D**

**114 B & C**

**115 A**

## **EMPLOYMENT LAW**

**116 C**

There is a duty to obey all lawful and reasonable orders.

**117 B**

Between 1 month – 2 years continuous employment there will be 1 week notice period.

**118 C**

This is an inadmissible reason.

**119 C**

**120 B**

**121 B**

**122 C**

**123 C**

**124 A**

The employer's intention is not a relevant factor.

**125 B**

This is not a necessary requirement.

**126**

	True	False
Anne will succeed in an action against E plc for wrongful dismissal		X
Anne will succeed in an action against E plc for unfair dismissal	X	

This is an automatically unfair reason.

**127**

	True	False
An employer has an implied duty to behave reasonably and responsibly towards employees	X	
An employer has an implied duty to provide a reference		X

There is no implied duty to provide a reference.

**128 A****129 B**

This is not an automatically unfair reason.

**130 C**

Wrongful dismissal is a common law action.

**131 C****132 B**

Employees receive their pay net of all taxes and national insurance.

**133 A**

*Pepper v Webb.*

**134 A**

Redundancy pay is available after 2 years continuous employment.

**135 C****136 B**

**137 A**

**138 C**

Employment contract terms are also implied by statute. In common law employees have a duty to obey only lawful and reasonable orders.

**139 D**

**140 D**

**141 C**

*Simmonds v Dowty Seals Ltd.*

**142 D**

**143 A**

**144 A**

There is no legal duty on employers to provide a reference. If they choose to do so it must be honest and factual.

**145 D**

This is a common law duty.

**146 A**

**147 C**

**148 C**

**149 A**

**150 A & B**

**151 B**

**152 B**



## THE FORMATION AND CONSTITUTION OF BUSINESS ORGANISATIONS

153 C

154 B

155 C

156 C

157 B

A statement of capital will be required.

158 B

159 C

160 A

Directors could be prosecuted for fraudulent trading.

161 C

162 A

163 C

Where an individual is personally liable for the business debts that person will be a sole trader.

164 C

165 C

166 C

167 C

There are no formal requirements to create an ordinary partnership.

168 B

The promoter will be liable under a pre-incorporation contract.

**169 D**

**170 A**

**171 C**

**172**

	True	False
The partners in an ordinary partnership jointly own the firm's assets	X	
The shareholders in a company jointly own the company's assets		X

A partnership is not a separate legal entity, whereas a company is.

**173 D**

The articles of association are contractually binding on members and the company only in respect of membership matters.

**174 B**

A promoter is in a fiduciary position and should not make a secret profit.

**175 D**

**176 C**

**177 A**

**178 A**

**179 D**

**180 A**

**181 C**

*Foss v Harbottle.*

**182 D**

**183 B**

Partnerships can only create fixed charges.

**184 D**

**185 A**

Public companies cannot be limited by guarantee.

**186 D**

**187 D**

**188 C**

**189 D**

Only private company names must end in Ltd.

**190 B**

Articles are not required to be submitted to form a company. Model articles will apply if no articles are submitted.

**191 D**

*Allen v Gold Reefs of Africa.*

**192 A & D**

**193 B**

**194 B & D**

**195 D**

**196 C & D**

**197 A**

## **CAPITAL AND THE FINANCING OF COMPANIES**

**198 A**

**199 A**

**200 B**

**201 C**

**202 B**

**203 B**

**204 B**

**205 C & D**

**206 A**

**207 C**

**208 A**

**209 B**

**210 C**

**211 D**

**212 C**

**213 B**

**214 D**

The maximum expiry date is 5 years.

**215 B**

**216 D**

**217 B**

**218 D**

**219 C**

**220 A**

**221 A**

**222 B**

**223 B**

As Jabeen's charge was not registered within 21 days of creation, Adeel's charge takes priority.

**224 B**

Non-cash consideration must be received within five years.

**225 C**

**226 D**

## **MANAGEMENT, ADMINISTRATION AND REGULATION OF COMPANIES**

**227 C**

**228 C**

**229 A**

**230 A**

**231 C**

**232 C**

**233 A**

**234 A**

**235 C**

**236 C**

**237 C**

**238 A**

**239 D**

**240**

	True	False
The statutory duty of a director to disclose any interest that he has in a proposed transaction or arrangement with the company does not apply to shadow directors.		X
A director may not exercise his powers except for the purpose for which they were conferred	X	

Shadow directors have the same statutory duties.

**241 A**

*Bushell v Faith.*

**242 A & D****243 A****244 B****245 D**

Only offences committed in connection with the running or management of a company are grounds specifically set out in the Act.

**246 C****247 D****248 D****249 A**

It is only mandatory for public companies to have a company secretary.

**250 B****251 A**

## INSOLVENCY LAW

**252 C****253 C**

254 A

255 C

256 B

257 A

258 A

259 B

260 A

The others would all rank as unsecured creditors.

261 A

262 D

A creditor owed £800 can only appoint an administrator upon application to the court. They cannot do so without court approval.

263 A

If an employee's contract is not adopted by the administrator within 14 days the employee is then made redundant.

264

	True	False
An administrator is the company's agent	X	
An administrator must act in the best interests of all the company's creditors	X	

265 A

266 A

267 A

268 B

269 A & C

## CORPORATE FRAUDULENT AND CRIMINAL BEHAVIOUR

**270 C**

An action for civil liability can be brought if the company is being wound up. An action for criminal liability can be brought whether or not the company is in the course of being wound up.

**271 B**

**272 B & C**

**273 C**

**274 A**

**275 B**

**276 A**

**277 D**

**278 D**

**279 D**

**280 B**

An action for wrongful trading can only be brought where the company is in insolvent liquidation.

**281**

	Stage 1	Stage 2	Stage 3
The criminal facilitation of the offence by an associated person		X	
The criminal evasion of tax	X		
The relevant body failed to prevent the associated person from committing the facilitation			X

**282 C**



**283**

	True	False
A Money Laundering Compliance Principal must be on the board of directors.		<b>X</b>
The Money Laundering Reporting Officer and the Money Laundering Compliance Principal cannot be the same person.		<b>X</b>

A Money Laundering Compliance Principal can be a member of senior management. The Money Laundering Reporting Officer and the Money Laundering Compliance Principal can be the same person if sufficiently senior.

**284 A**

A risk assessment should use a risk based approach to detecting and preventing money laundering.

## Section 4

# ANSWERS TO MULTI-TASK QUESTIONS

## THE LAW OF OBLIGATIONS

### 285 AMY AND BEN (A)

#### Task 1

- His promise is a valid offer
- His promise is valid consideration

Ben's promise is a clear and definite statement, and therefore amounts to a valid offer. There is no requirement in law for an offer to be written.

The promise to pay £1,000 on completion is executory consideration, and therefore valid.

#### Task 2

- The law presumes that no intention to create legal relations exists between Ben and Amy because they are related
- There is clear evidence to rebut the presumption that intention does not exist

In domestic and social agreements, there is a presumption that the parties do not intend to create legal relations. The presumption may be rebutted by the actual facts and circumstances of a particular case (*Simpkins v Pays*).

Although Amy and Ben are brother and sister it is clear from the facts of the situation that they entered into a business relationship with regard to the provision of the updating of the web site. In such circumstances there was a clear intention to create legal relationships and therefore Amy can enforce the contract against Ben.

#### Task 3

- Amy would be entitled to £1,000 damages, reflecting the agreed contract price
- Amy would have six years to bring legal action

Damages are a common law remedy, designed to compensate the claimant for losses arising from the breach. In this instance, Amy would claim for the price agreed i.e. an action for price.

The limitation period for breach of contract is six years.

## 286 ARTI (A)

### Task 1

- Arti's letter represents an express anticipatory breach of contract

Under the doctrine of anticipatory breach one party, prior to the actual due date of performance, demonstrates an intention not to perform their contractual obligations.

Express anticipatory breach occurs where a party actually states that they will not perform their contractual obligations (*Hochster v De La Tour*).

### Task 2

- Anticipatory breach allows the innocent party the option to treat the contract as discharged and sue for damages immediately
- Anticipatory breach allows the innocent party the option to treat the contract as still valid, and only sue for damages once there has been an actual breach

The remedy of specific performance is not available in respect of contracts of employment or personal service. Therefore, Arti cannot be legally required to write the book for Bee Ltd.

### Task 3

- Damages

Bee Ltd can sue Arti for damages. Damages are intended to compensate an injured party for any financial loss sustained as a consequence of another party's breach. Specific performance is not awarded to enforce a service contract.

## 287 AMY AND BRY (A)

### Task 1

- Bry's promise is executory consideration
- Bry's consideration is a promise to perform existing contractual duties

For consideration to be valid, it must occur at the time of agreement (executed) or after the agreement (executory). Bry's promise is clearly executory consideration, as it will be performed in the future.

Since Bry was already contractually obliged to complete the work, his promise to complete the work for extra pay, is a promise to perform an existing contractual duty.

### Task 2

- Performing an existing statutory or contractual duty is not valid consideration, subject to certain exceptions
- There is no requirement in law for each party's consideration to be equal in value

Consideration must be sufficient, but not adequate. This means that the consideration must have some monetary value, but there is no need for each of the party's consideration to be equal in value.

The long established rule of contract was that the mere performance of a contractual duty already owed to the promisor could not be consideration for a new promise (*Stilk v Myrick*). Where, however, the promisee did more than they were already contractually bound to do then the performance of the additional task does constitute valid consideration for a new promise.

The case of *Williams v Roffey Bros* expanded this to say that the performance of an existing contractual duty can amount to consideration for a new promise in circumstances where there is no question of fraud or duress, and where practical benefits accrue to the promisor.

**Task 3**

- Ami benefitted from Bry completing the work on time, however, the promise of extra payment was extracted from Ami by pressure and therefore his consideration is not valid

In this situation Bry has clearly exerted a form of economic duress on Ami to force her to increase the contract price. Ami was left with no real choice but to agree to Bry's terms or else she would have suffered a potentially substantial loss. Such unfair pressure would take the case outside of *Williams v Roffey Bros* and Bry would be unable to enforce the promise for the additional £1,000.

**288 BILD LTD (A)****Task 1**

- They compensate the injured party for any financial loss
- They put the parties in the position they would have been in had the contract been performed

**Task 2**

- It would be the difference in value between the building as it has been completed and its value if it had been properly completed
- It would be the cost of completing the work to the required specification unless the cost of remedying the defects are disproportionate to the difference in value between what was supplied and what was ordered

**Task 3**

- Damages of £2,000

**289 ALI (A)****Task 1**

- An offer can be in any form
- An offer must be communicated to the offeree

**Task 2**

- The shop window sign and display is an invitation to treat
- Ben's letter to Ali is an offer

**Task 3**

- There is no contract between Ali and Ben
- There is a contract between Ali and Di

**290 ALVIN (A)****Task 1**

- The £5,000 price tag is an invitation to treat, and not a valid offer
- Alvin has made a valid offer for £25,000, which Bert has rejected by counter offer

The price notice on the car constituted an invitation to treat. As such it is not an offer to sell but merely an invitation to others to make offers (*Fisher v Bell*).

An offer is terminated by rejection. Rejection can be outright, or by counter-offer (*Hyde v Wrench*) i.e. an offer made in response to an offer. A typical negotiation will involve a series of counter-offers, and this has occurred between Alvin and Bert.

**Task 2**

- Cat's acceptance is conditional, and therefore not valid
- Alvin's offer will terminate after a reasonable period of time

Acceptance requires the unqualified and unconditional assent to all terms of an offer. A conditional acceptance, is therefore not valid and effectively amounts to a counter-offer.

In addition to revocation (*Routledge v Grant*) and rejection (*Hyde v Wrench*), an offer will also terminate after a period of time either specified in the terms of the offer itself, or after a time the court considers reasonable.

**Task 3**

- A binding contract between Alvin and Del was created on Tuesday
- If Del does not return on Friday to pay for the car, he is in breach of contract

There is a binding contract made between Alvin and Del, consisting of an offer, acceptance, consideration and intention to create legal relations. The contract is made at the point of agreement (Tuesday) and not when the contract is performed (Friday).

Failure to arrive and pay for the car on Friday would be a clear breach of contract by Del.

**291 ARI (A)**

In general, the part-payment rule states that payment of a smaller sum does not discharge a debt of a greater amount (*Foakes v Beer*).

However there are four exceptions to this rule, three of which are brought out in this scenario.

**Task 1**

- As Ari agreed to accept Bi's offer to do his accounts as part payment of her outstanding debt there is nothing further he can do to recover any more money

**Task 2**

- By accepting part payment from a third party, i.e. Cas's father, Ari cannot recover any more money from Cas

**Task 3**

- Dex acted unilaterally and did nothing additional to compensate Ari for his part payment. Consequently Dex remains liable for the remaining half of his bill

**292 BUD (A)****Task 1**

	True	False
The advertisement is a mere statement of intention to sell, and is not an offer		X
The price tag is an invitation to treat, and is not an offer	X	
Since the price tag is displayed prominently, it is a valid offer		X
The advertisement is likely to be considered an offer, due to the specific wording and unreserved commitment to enter into contract	X	

It might appear at first sight that Ali's advertisement in the paper was no more than an invitation to treat and therefore not capable of being accepted by any of the other parties. However, the wording of the advert was in such categorical terms that it might be seen to have been an offer to the whole world, stating his unreserved commitment to enter into a contract with the first person who accepted it (*Carlill v Carbolic Smoke Ball*)

The price tag is clearly an invitation to treat, according to long established common law principles (*Fisher v Bell*).

**Task 2**

- Specific performance

Specific performance requires someone to perform their contractual obligations. It is awarded only where damages are not an adequate remedy. In this instance, the rug is unique, and therefore damages for loss of bargain are not appropriate and specific performance would be awarded.

**293 ABID (A)****Task 1**

- An exclusion clause can be incorporated into a contract by signature
- An exclusion clause can be incorporated into a contract by notice

**Task 2**

- An exclusion clause needs to pass the common law and statutory rules
- CRA 2015 applies to business to consumer contracts only

**Task 3**

- The exclusion clause has been incorporated through previous dealings
- Under the CRA 2015 the exclusion clause is automatically unenforceable as it attempts to exempt liability for personal injury due to negligence.

**294 ANN (A)****Task 1**

- Most advertisements are invitations to treat, and cannot be accepted to form a binding contract
- The wording of Ann's advert was sufficiently categorical for it to have been a valid offer to the world at large

The first issue to determine is whether Ann's advertisement was an offer or an invitation to treat. An offer is a promise to be bound on particular terms. The offer may, through acceptance, result in a legally enforceable contract. Alternatively, an invitation to treat is an invitation to others to make offers. The person extending the invitation is not bound to accept any offers made to them. Usually, advertisements only amount to an invitation to treat and cannot be accepted to form a binding contract (*Partridge v Crittenden* (1968)). There are occasions, however, when an advert can amount to a genuine offer capable of acceptance by anyone to whom the offer is addressed (*Carlill v Carbolic Smoke Ball Co* (1893)). The wording of Ann's advert was in sufficiently categorical terms for it to have been an offer to the world at large, stating her unreserved commitment to enter into a contract with the first person who accepted it.

**Task 2**

- The postal rule will only apply where it is in the contemplation of the parties that the post will be used as the means of acceptance
- The postal rule does not apply to Con's letter, since the use of the post was clearly an inappropriate mode of acceptance in the circumstances

Once an offeree accepts the terms offered, a contract comes into effect and both parties are bound.

Usually, acceptance must be communicated to the offeror. However, there are exceptions, one of which arises where acceptance is through the postal service. In the latter circumstances, acceptance is complete as soon as the letter, properly addressed and stamped, is posted (*Adams v Lindsell* (1818)). The postal rule will only apply, however, where it is in the contemplation of the parties that the post will be used as the means of acceptance.

Con has clearly tried to accept the offer but his reliance on the postal rule would be to no avail as the use of the post was clearly an inappropriate mode of acceptance. He, therefore, has no right of action against Ann.

**Task 3**

- Di's request to pay by cheque was merely a request for information

In order to form a binding agreement, acceptance must correspond with the terms of the offer. Thus the offeree must not seek to introduce new contractual terms into their acceptance (*Neale v Merritt* (1830)). Any attempt to do so amounts to a counter-offer and leaves the original offeror at liberty to accept or reject the new offer as they choose (*Hyde v Wrench* (1840)).

Ann's advertisement clearly stated that she wanted cash for the print and, therefore, Di's attempt to pay with a cheque did not comply with the original offer and leaves her with no grounds for complaint. The decision in *D & C Builders Ltd v Rees* (1966) as to cheques being equivalent to money is not to the point, as Ann wanted immediate payment for the print

**295 JOAN & DAVID****Task 1**

- Business to consumer contracts only
- All terms in the contract

**Task 2**

- A black listed term is automatically unenforceable under the Act
- A grey listed term is only unenforceable if the courts deem that it fails the fairness or transparency tests

**Task 3**

- The excess baggage charge is likely to be deemed unenforceable as it fails the fairness test
- The mobile phone contract price is likely to be deemed enforceable as it relates to the appropriateness of the price and the term is transparent and prominent

**296 CROMWELL ARMS****Task 1**

- There must have been a loss made to make a claim in negligence
- There must be a causal link to make a claim for negligence

**Task 2**

- Pure financial loss

**Task 3**

- The accountant owes a duty of care to Charles
- The accountant will be liable for the losses which Charles has suffered

**EMPLOYMENT LAW****297 FINE LTD (A)****Task 1**

- A claim for unfair dismissal is a statutory right
- A claim for unfair dismissal will be brought to an employment tribunal

**Task 2**

- It is where the employer breaches the contract
- The employee resigns as a result of the breach of contract

**Task 3**

- Gus meets the minimum employment period requirement to make a claim for unfair dismissal
- The compulsory move would give rise to a claim for unfair dismissal



**298 EVE AND FRED (A)****Task 1**

	<b>Contract Wording</b>	<b>Method of Payment</b>	<b>Right of Substitution</b>	<b>Control</b>
Eve	<b>X</b>	<b>X</b>		
Fred			<b>X</b>	<b>X</b>

Fred's contract was a "contract of service", thus indicating he is an employee of Dan. Eve's contract is a contract for services, which indicates self-employment.

Eve had to work for Dan only and on his premises, whereas Fred works from home. From a control test perspective, this indicates Eve is an employee, and Fred self-employed.

Fred was allowed to work for others but, most importantly, he was also allowed to use others to do his work for Dan. This suggests clearly that Fred was self-employed.

Eve renders invoices periodically, while Fred is on the payroll. Based on this test, Eve is self-employed and Fred is employed.

**Task 2**

	<b>Employed</b>	<b>Self-Employed</b>
Eve	<b>X</b>	
Fred		<b>X</b>

In practice the courts will consider all factors when determining a person's employment status, as per the economic reality test, however, in the circumstances Fred does have more control over his work than Eve, and also has the right to substitute others to complete the work. On balance, therefore, Eve would appear to be an employee whereas Fred is self-employed.

## **THE FORMATION AND CONSTITUTION OF BUSINESS ORGANISATIONS**

**299 ELAINE****Task 1**

- The contract is made between the principal and the third party

**Task 2**

- By ratification

**Task 3**

- Elaine needs to ratify the whole contract
- Elaine must have the contractual capacity to make the contract

**300 BLACK SHILLING****Task 1**

- There is an agency relationship by express agreement

In this scenario there is an agency relationship by express agreement as Aarav has asked Joey to act on his behalf. An agency agreement can be made either orally or in writing.

**Task 2**

	True	False
As an agent, Joey has the right to claim remuneration for the service he has performed, which was agreed at £1,000	X	
Joey has the right to exercise a lien over the 'White Shilling' in his possession	X	
Joey has no right to exercise a lien over the 'White Shilling', as he is in breach of his fiduciary duties towards Aarav		X
Joey has the right to claim £1,000 remuneration from the seller of the 'Black Shilling'		X

As an agent, Joey has the right to claim remuneration for the service he has performed which was agreed at £1,000. As Joey has not yet been paid he has the right to exercise a lien over the 'White Shilling' in his possession. A lien allows the agent to retain possession over the principal's property that is lawfully in the agent's possession until any debts due to the agent have been paid by the principal. Therefore, Joey can hold onto the 'White Shilling' until Aarav has paid him his remuneration.

**301 HAM, SAM AND TAM (A)****Task 1**

	True	False
Sam has acted within his implied authority as a partner to borrow money on the credit of the firm	X	
Tam's purchase of the used cars was within the express provision of the partnership agreement		X
Tam's purchase of the used cars is likely to be within the implied authority of a partner in a garage business	X	
Sam has used his powers for an unauthorised purpose, and therefore exceeded his express authority	X	

S5 PA 1890 states that every partner is the agent of the firm and of the other partners. This means that each partner has the power to bind all partners to business transactions entered into within their express or implied authority.

Sam has clearly used his powers for an unauthorised purpose. However, Sam has acted within his implied authority as a partner to enter into such a transaction. As a trading partnership, all the members have the implied authority to borrow money on the credit of the firm and the bank would be under no duty to investigate the purpose to which the loan was to be put.

Tam's purchase of the used cars was clearly outside of the express provision of the partnership agreement. Nonetheless Tam would be likely to be held to be within the implied authority of a partner in a garage business (*Mercantile Credit v Garrod*).

#### Task 2

- Ham, Sam and Tam

Partners are jointly and severally liable for contracts made by any partner of the firm, so long as they were acting within their express or implied authority. In this instance, the bank can choose to hold any, or a combination, of the all partners liable for the £10,000 debt.

### 302 GEO, HO AND IO (A)

#### Task 1

	Creditors	Ho	Io	Geo
£7,000	X			
£6,500				X
£3,900		X		
£2,600			X	

Firstly, the creditors will be paid their £7,000 in full from the £20,000 proceeds.

The remaining £13,000 will be distributed to the partners in proportion to their capital contribution.

Geo will receive £6,500 ( $5/10 \times 13,000$ )

Ho will receive £3,900 ( $3/10 \times 13,000$ )

Io will receive £2,600 ( $2/10 \times 13,000$ )

#### Task 2

- Geo, Ho and Io

Partners are jointly and severally liable for contracts made by any partner of the firm, so long as they were acting within their express or implied authority.

### 303 DON (A)

#### Task 1

- 1st November 2015

A pre-incorporation contract is a contract which promoters enter into, naming the company as a party, prior to the date of the certificate of incorporation and hence prior to its existence as a separate legal person. The company cannot enter into a binding contract until it has become incorporated, and it is not bound by any contract made on its behalf prior to incorporation.

#### Task 2

- Don is personally liable for the contract under common law
- Don could have avoided liability under the contract by delaying completion of the contract until Eden Plc was registered

The contract in the company's name was purportedly entered into before the company had come into existence. In such circumstances the company cannot be bound by the contract (*Kelner v Baxter*). Consequently, the provider of the computer equipment cannot take any action against Eden plc, but will have recourse to action against Don for any losses suffered by virtue of s.51 CA 2006.

A simple way of avoiding the problem of pre-incorporation contracts, is to agree terms but delay completion the contract until the company is registered.

**Task 3**

- Monetary fine for breach of promoter's duties

A promoter owes a fiduciary duty to not make "secret profits" under pre-incorporation contracts. Failure to do so would amount to a civil breach, leaving the company able to claim rescission or financial compensation. A monetary fine is a punishment under criminal law, only.

**304 DOC (A)****Task 1**

- A sole trader
- A general partnership

**Task 2**

- The shareholders of Ed Ltd are liable for the company's debts

**Task 3**

- Doc cannot take action against Ed personally
- Doc can enforce the restraint of trade clause against Fitt.

**305 GLAD LTD (A)****Task 1**

- Fred is entitled to attend the meeting, but is not permitted to vote

Section 21 Companies Act 2006 provides for the alteration of articles of association by the passing of a special resolution, requiring a 75% vote in favour of the proposition. Consequently, the directors of Glad Ltd must call a general meeting of the company and put forward a resolution to alter the articles as proposed. Fred will be entitled to attend the meeting, speak and vote on the resolution.

**Task 2**

- The proposed alteration is likely to succeed on the basis that it is in the bona fide interests of the company as a whole
- Fred is unable to block the resolution as he has insufficient votes to do so

Any such alteration, as is proposed, has to be made 'bona fide in the interest of the company as a whole'. This test involves a subjective element, in that those deciding the alteration must actually believe they are acting in the interest of the company. There is additionally, however, an objective element requiring that any alteration has to be in the interest of the 'individual hypothetical member' (*Greenhalgh v Arderne Cinemas Ltd* (1951)). Whether any alteration meets this requirement depends on the facts of the particular case. In *Brown v British Abrasive Wheel Co Ltd* (1919), an alteration to a company's articles to allow the 98% majority to buy out the 2% minority shareholders was held to be invalid as not being in the interest of the company as a whole. However, in *Sidebottom v Kershaw Leese & Co* (1920), an alteration to the articles to give the directors the power to require any shareholder, who entered into competition with the company, to sell their shares to nominees of the directors at a fair price was held to be valid.

It is extremely likely that the alteration will be permitted. Fred only controls 20% of the voting power in the company and so he is no position to prevent the passing of the necessary special resolution to alter the articles as proposed. Additionally, it would clearly benefit the company as a whole, and the hypothetical individual shareholder, to prevent Fred from competing with the company, so Fred would lose any challenge he subsequently raised in court.

### Task 3

- A company's articles are legally binding between company and its shareholders, and shareholders with each other

s.33 CA06 provides that a company's articles form a statutory contract between the company and its members, and between the members themselves. However, the articles do not bind the company to non-members nor do they bind the members in respect of any non-member rights contained in the articles (*Eley v Positive Government Security Life Assurance Co*).

## CAPITAL AND THE FINANCING OF COMPANIES

### 306 FAN PLC (A)

#### Task 1

- Distributable profits is defined as accumulated realised profits less accumulated realised losses
- A revaluation surplus is not included within accumulated realised profits

#### Task 2

	Required	Not required
Memorandum of association	✓	
Application for registration	✓	
Articles of association		✗
Statement of guarantee		✗

As the model articles will apply if no articles are supplied, it is not a requirement that articles must be sent, although all companies will have articles.

As Fan Plc is a public company it cannot be limited by guarantee and therefore a statement of guarantee would not be submitted.

#### Task 3

- The company could recover the distribution from Dee and Eff
- The company could recover the distribution from other shareholders

**307 JUDDER LTD (A)****Task 1**

	<b>Ltd Only</b>	<b>Plc Only</b>	<b>Both</b>
Pass Special Resolution			<b>X</b>
Produce a Solvency Statement	<b>X</b>		
Settle a list of creditors entitled to object		<b>X</b>	
File documents within 15 days of resolution			<b>X</b>

For private companies, such as Judder Ltd, a special resolution must be passed. This must be supported by a solvency statement made not more than 15 days before the date on which the resolution is passed.

A solvency statement is a statement made by each of the directors that the company will be able to meet its debts within the following year.

Copies of the resolution, solvency statement and a statement of capital must be filed with the Registrar within 15 days.

The process for public companies is similar, except rather than a solvency statement, the company must settle a full list of creditors entitled to object to the reduction. The court must not confirm the reduction until it is satisfied that all creditors have either consented to the reduction or had their debts discharged or secured.

**Task 2**

- To finance a dividend payment to shareholders

Under s.621 Companies Act 2006 a company can reduce its capital for one of the following reasons:

- To reduce or cancel liabilities on partly-paid shares.
- To return capital in excess of the company's needs.
- To cancel the paid-up capital that is no longer represented by the assets.

**308 FIN (A)****Task 1**

	<b>Lawful</b>	<b>Unlawful</b>
Issue at 50p, fully paid, as described above		<b>X</b>
Issue at par value, fully paid	<b>X</b>	
Issue at par value, 50p paid up	<b>X</b>	
Issue at market value, when market price is 80p		<b>X</b>

There are two key aspects of the doctrine of capital maintenance: firstly that creditors have a right to see that the capital is not dissipated unlawfully; and secondly that the members must not have the capital returned to them surreptitiously. Issuing a £1 nominal share for a price of 50p or 80p, is an unlawful issue at a discount.

Issuing a share partly-paid is perfectly lawful, and the company may call up the unpaid share capital at its discretion, or in the event of winding up.

**Task 2**

- Finn will be required to pay £10,000 plus interest at an appropriate rate

As above, shares cannot be issued at a discount to their nominal value. Therefore Finn will be liable to pay the balance of £10,000 and interest at the appropriate rate (s.580(2) CA 2006).

**309 INHERITANCE (A)****Task 1**

- Debenture stock secured by fixed charge

**Task 2**

- Preference shares

**Task 3**

- Ordinary shares

**310 HO (A)****Task 1**

	Issue at Discount	Issue at Premium	Lawful	Unlawful
Ice Ltd	X			X
Jet Plc		X	X	

There is no requirement that companies should require their shareholders to immediately pay the full value of the shares. The proportion of the nominal value of the issued capital actually paid by the shareholder is called the paid up capital. It may be the full nominal value, in which case it fulfils the shareholder's responsibility to the company; or it can be a mere part payment, in which case the company has an outstanding claim against the shareholder. It is possible for a company to pass a resolution that it will not make a call on any unpaid capital. However, even in this situation, the unpaid element can be called upon if the company cannot pay its debts from existing assets in the event of its liquidation.

Applying this to Ho's case, it can be seen that he has a maximum potential liability in relation to his shares in Ice Ltd of 50 pence per share. The exact amount of his liability will depend on the extent of the company's debts but it will be fixed at a maximum of 50 pence per share.

It is common for successful companies to issue shares at a premium, the premium being the value received over and above the nominal value of the shares. Section 610 Companies Act 2006 provides that any such premium received must be placed into a share premium account. The premium obtained is regarded as equivalent to capital and, as such, there are limitations on how the fund can be used.

**Task 2**

- To finance a reduction in share capital

Section 130 provides that the share premium account can be used for the following purposes:

- (i) to pay up bonus shares to be allotted as fully paid to members
- (ii) to write off preliminary expenses of the company
- (iv) to write off the expenses, commission or discount incurred in any issue of shares or debentures of the company
- (v) to pay for the premium payable on redemption of debentures.

Applying the rules relating to capital maintenance, it follows that the share premium account cannot be used for payments to the shareholders.

Applying the rules to Ho's situation, it can be seen that he cannot get any of the premium paid for the shares in Jet plc back from the company in the form of cash.

## MANAGEMENT, ADMINISTRATION AND REGULATION OF COMPANIES

### 311 FRAN, GILL AND HARRY (A)

**Task 1**

- The articles of association are enforceable by the company against the members
- The articles of association do not bind the company to members in any other capacity

**Task 2**

- Compuware Design Limited's articles of association can be altered by a special resolution
- Fran can be removed from her position as a director by an ordinary resolution with special notice

**Task 3**

- Fran cannot rely on the articles of association for her to remain as the company's solicitor
- Gill and Harry can remove Fran from her role as company director

### 312 KING LTD (A)

**Task 1**

- Authority vests in the board of directors collectively

s.43 CA06 vests power to manage the business of a company to its board of directors collectively, although contracts can also be made on behalf of the company by a person acting under its authority, express or implied.

**Task 2**

- Lex has apparent authority due to being held out as managing director



The board of King Ltd has permitted Lex to act as its Managing Director, and he has even used that title. The board has therefore acquiesced in his representation of himself as King Ltd's Managing Director and, consequently has the authority to enter into contracts within the scope of a Managing Director's implied authority.

**Task 3**

- King Ltd is liable under the contract

Entering into a contract to draw up plans would clearly come within the implied authority of a Managing Director. King Ltd will therefore be liable to pay Nat or face an action for breach of contract.

**313 CLEAN LTD (A)**

**Task 1**

- S.175 – Duty to avoid conflicts of interest

Des has breached his statutory duty under CA2006 s.175 by placing himself in a situation where he is in direct conflict with the interests of the company (*IDC v Cooley*).

**Task 2**

- Des should have declared the full extent of his relationship with Dank plc, and sought approval from the board

Honesty and transparency is key. To avoid the conflict of interest, Des should have declared his arrangement with Dank Plc to the board, and sought approval of the other directors or the members.

**Task 3**

- An account of any profits made by Des on the contract between Flush Ltd and Dank plc

The remedies available would include:

- (i) Damages or compensation where the company has suffered loss
- (ii) Restoration of the company's property
- (iii) An account of profits made by the director; and
- (iv) Rescission of a contract where director failed to disclose an interest

In this scenario, Des will be held liable to account to the company for any profits he made on the transaction.

**314 GOAL LTD (A)**

**Task 1**

	True	False
Hope acted within his express authority		X
Hope acted within the apparent authority of Chief Executive	X	
The contract with Ima is not legally binding because authority to contract vests solely with the board of directors, collectively		X
A Chief Executive has the implied authority to make commercial contracts	X	

Where there is no express authority, authority may be implied from the director's position. A chief executive will usually have authority to make commercial contracts on behalf of the company.

The board of Goal Ltd has permitted Hope to act as its chief executive, and he has even used that title. The board has therefore acquiesced in his representation of himself as Goal Ltd's chief executive and, consequently has the authority to enter into contracts within the scope of a chief executive's implied authority.

Entering into a contract to draw up plans would clearly come within the implied authority of a chief executive. Goal Ltd will therefore be liable to pay Ima or face an action for breach of contract.

### Task 2

- Membership of a Professional Accounting Body

Membership of a professional body, such as ACCA, does not carry with the power to make contracts.

## 315 DO PLC (A)

### Task 1

- A public company must have a qualified company secretary
- The company secretary is usually appointed and removed by the directors

### Task 2

- Chu has express authority as delegated by the board
- Chu has implied authority regarding contracts of an administrative nature

### Task 3

- Both the agreements are binding on Do plc

## 316 KUT LTD (A)

### Task 1

	True	False
The board has held-out Leo as their chief executive and consequently Kut Ltd are bound by any contracts he makes within the scope of a chief executive's implied authority	X	
The contract with Max is outside the scope of a chief executive's implied authority		X
By referring to himself as chief executive, without being formally appointed to the role, Leo is in breach of his statutory duties as director		X
Leo and Kut Ltd are jointly and severally liable under the contract with Max		X

Article 3 of the model articles of association for private companies provides that the directors of a company may exercise all the powers of the company. It is important to note that this power is given to the board as a whole and not to individual directors and consequently individual directors cannot bind the company without their being authorised, in some way, so to do.

There are three ways in which the power of the board of directors may be extended to individual directors.

- (i) The individual director may be given express authority to enter into a particular transaction on the company's behalf. To this end, Article 5 allows for the delegation of the board's powers to one or more directors. Where such express delegation has been made, then the company is bound by any contract entered into by the person to whom the power was delegated.
- (ii) A second type of authority which may empower an individual director to bind his company is implied authority. In this situation, the person's authority flows from their position. The mere fact of appointment to a particular position will mean that the person so appointed will have the implied authority to bind the company to the same extent as people in that position usually do (*Hely-Hutchinson v Brayhead Ltd* (1968)).
- (iii) The third way in which an individual director may possess the power to bind his company is through the operation of ostensible authority, which is alternatively described as apparent authority or agency by estoppel. This arises where an individual director has neither express nor implied authority. Nonetheless, the director is held out by the other members of the board of directors as having the authority to bind the company. If a third party acts on such a representation, then the company will be estopped from denying its truth (*Freeman and Lockyer v Buckhurst Park Properties (Mangal) Ltd* (1964)).

The situation in the problem is very similar to that in *Freeman and Lockyer v Buckhurst Park Properties (Mangal) Ltd*. The board of Kut Ltd has permitted Leo to act as its chief executive, and he has even used that title. The board has therefore acquiesced in his representation of himself as their chief executive and consequently Kut Ltd is bound by any contracts he might make within the scope of a chief executive's implied authority. As the contract in question is in the ordinary run of business, it would clearly come within that authority. Consequently Kut Ltd will be liable to pay Max or face an action for breach of contract.

#### Task 2

- Non-executive director

Non-executive directors are likely to hold part time appointments. They typically bring outside expertise to the board, and provide a check and balance on the power of executive directors.

## INSOLVENCY

### 317 MAT, MARY AND NORM (A)

#### Task 1

- The shares are treated as partly paid
- Mat, Mary and Norm will need to provide a further £750 each

#### Task 2

	True	False
A special resolution will be passed	✓	
A declaration of solvency will be made		✗
A statement of affairs will be submitted	✓	
A physical meeting of creditors must be held within 21 days		✗

As the company is insolvent a declaration of solvency would not be made. A physical meeting of creditors is not required.

**Task 3**

	1st	2nd	3rd equal
Business creditors			✓
Bank overdraft			✓
Fixed charge	✓		
Liquidator's expenses		✓	

The business creditors and bank overdraft would be grouped together as unsecured creditors.

**318 ADMINISTRATION****Task 1**

- To rescue the company financially with the aim of allowing it to continue as a going concern

Administration is often used as an alternative to putting a company into liquidation. The main aim is often to rescue a company in financial difficulty with the aim of allowing it to continue as a going concern.

**Task 2**

	True	False
The rights of creditors to enforce security over the company's assets are suspended	X	
Any outstanding petition for winding up is dismissed	X	
The board of directors retain full authority throughout the period of administration		X
A special resolution of members is required to halt the administration and wind up the company		X

When a company is placed into administration, the rights of creditors to enforce security over the company's assets are suspended and any outstanding petition for winding up is dismissed. Directors continue in office, but their powers are suspended. For the duration of the administration, no resolution may be passed to wind up the company.

**319 LIVERTON****Task 1**

	Administration	Liquidation
The purpose is to bring a company to an end, and repay creditors		X
The purpose is to rescue the company so that it continues to trade as a going concern	X	
Requires a special resolution of members		X

Liquidation is the process by which a company will completely cease to exist. Where companies are in financial difficulties with no prospect of recovery a liquidation may be the only course of action to take.

However an administration is often used as a means of rescuing a company in financial difficulty with the aim of allowing it to continue as a going concern. This is precisely what the directors of Liverton Ltd want to achieve. Administration might also achieve a better overall outcome for creditors compared to a liquidation.

**Task 2**

- All directors continue in office for the duration of the administration, but their powers are suspended

The process of administration would involve the appointment of a licensed insolvency practitioner to act as administrator, who would then take over the management of the company's affairs from the directors. The administrator has wide powers to do things such as buy/sell assets, restructure debt, hire/dismiss employees etc. Directors continue in office, but their powers are suspended.

**320 BRASSICK LTD****Task 1**

	Will succeed	Will not succeed
Saeed		X
Malcolm		X
Brian		X

Appointing an administrator is predominantly a means of rescuing a company from financial difficulties i.e. the aim is that the company survives and continues to operate successfully. Accordingly the law provides certain protection in these instances to give the administrators the best chance of achieving this.

In this respect, the appointment of an administrator has the following important effects:

- The rights of creditors to enforce any security over the company's assets are suspended until administration has ended. Therefore, Saeed will be unable to enforce his fixed charge.
- Any petition for winding up the company is dismissed. Therefore, Malcolm will be unsuccessful in any petition for compulsory liquidation.
- No resolution may be passed to wind up the company. Therefore, Brian and the other unhappy shareholders will be unable to pursue a winding up.

**Task 2**

- Twelve months

Administration must normally be completed within 12 months of commencement. However this may be extended at the consent of the court or the company's secured creditors.

**321 WINSTON LTD****Task 1**

	<b>Required</b>	<b>Not required</b>
They must publish a notice of appointment in the London Gazette and in a newspaper in the area where Winston Ltd has its principal place of business	<b>X</b>	
They must obtain a full list of Winston Ltd's creditors and send notice of appointment to each of them	<b>X</b>	
They must obtain a full list of Winston Ltd's employees and send notice of appointment to each of them		<b>X</b>
They must ensure that every business document bears their identity as administrator, and that he/she is managing the affairs, business and property of the company.	<b>X</b>	

Legal requirements relating to announcement and appointment of an administrator include:

- The administrator must publish a notice of appointment in the London Gazette and in a newspaper in the area where Winston Ltd has its principal place of business.
- They must obtain a full list of Winston Ltd's creditors and send notice of appointment to each of them.
- They must send notice of appointment to the registrar.
- They must ensure that every business document bears their identity as administrator, and that he/she is managing the affairs, business and property of the company.

**Task 2**

- Within 7 days of appointment

Generally notification of appointment must be made as soon as is reasonably practicable after appointment, however specifically the registrar must be informed within 7 days of appointment.

**322 MICHAEL****Task 1**

	<b>True</b>	<b>False</b>
There are grounds for the compulsory liquidation of Jordan plc on the basis they have failed to obtain a trading certificate within six months of being incorporated		<b>X</b>
Jordan plc has one month left to obtain a trading certificate, before there is grounds for compulsory liquidation	<b>X</b>	
The fact that Cable Ltd has not commenced business within a year of being incorporated, is ground for compulsory liquidation of the company	<b>X</b>	
As a private company, Cable Ltd has two years to commence business before there are grounds for compulsory liquidation of the company		<b>X</b>

The possible grounds for a compulsory liquidation are set out in s.122 Insolvency Act 1986. Applying these to the companies in the question:

Jordan Plc – s.122(1)(b) provides that where a public company has not been issued with a trading certificate within 12 months of incorporation, there are grounds for a compulsory winding up by the court. The company therefore has 1 month to obtain a trading certificate before this action can be taken.

Cable Ltd – s.122(1)(d) provides that where a company has not commenced business within a year of being incorporated, this is grounds for a compulsory winding up by the court. This would appear to apply in this instance.

In all instances, companies may pass a special resolution to be wound up by the court under s.122(1)(a), although this is rare.

### Task 2

- Within three months

On the making of the winding up order, the official receiver become liquidator (s.136(2) IA86). Within three months, the Official Receiver will summon meetings of the contributories in order to appoint a licensed insolvency practitioner to take over the job of liquidator and to appoint a liquidation committee.

## 323 HURST LTD

### Task 1

- Inability to pay debts to a creditor exceeding £750

Rex plc will petition under s.122(1)(f) Insolvency Act 1986, as Hurst Ltd is unable to pay its debts.

Under s.123 a company is deemed unable to pay its debts where a creditor who is owed at least £750 has served a written demand for payments and the company has failed to pay the sum due within three weeks.

### Task 2

	True	False
Any floating charges crystallise	X	
The company will cease to carry on all business		X
All employees are automatically made redundant	X	
Directors remain in office, but their powers cease	X	

In the event of winding up, the company ceases to carry on business except where it is necessary to complete the winding up, e.g. to complete work-in-progress.

**324 SAMI LTD****Task 1**

	<b>1st</b>	<b>2nd</b>	<b>3rd</b>	<b>4th</b>
(a) Giles				<b>X</b>
(b) Martyn			<b>X</b>	
(c) Glenn	<b>X</b>			
(d) Bank		<b>X</b>		

The correct order of repayment is as follows:

- (i) Glenn's loan secured by a fixed charge created on 6 May
- (ii) Bank loan secured by a fixed charge created on 10 May
- (iii) Martyn's Loan secured by floating charge created on 1 May
- (iv) Giles' loan secured by a fixed charge created on 15 April

Fixed charges are repaid in priority to floating charges. Where there is more than one fixed charge holder, priority follows the order in which they were created. However, an unregistered, registerable charge has no priority over a registered charge.

In the case of Sami Ltd, Giles' loan was created first, however it was never registered and therefore loses priority against the other charges that all were registered on time. Glenn's loan has priority over the bank loan, regardless of the fact that the charge on the bank loan was registered before Glenn's.

Floating charge holders rank behind fixed charge holders, the liquidator, and preferential creditors.

**Task 2**

- 21 days

Charges can be registered by the company or the charge holder. Charges must be registered within 21 days of creation.

**325 PARK LTD****Task 1**

- Park Ltd will dissolve by a members' voluntary liquidation
- Winding up commences on the passing of a special resolution by members of Park Ltd

**Task 2**

	<b>True</b>	<b>False</b>
In a members' voluntary liquidation, creditors will appoint a licensed insolvency practitioner		<b>X</b>
Once a members' liquidation commences, it is not possible to later convert it to a creditors' liquidation		<b>X</b>
Liquidator's expenses are repaid after secured creditors but before members		<b>X</b>
A company is dissolved 3 months after liquidation	<b>X</b>	



The Insolvency Act 1986 sets out the following procedures for a members' voluntary liquidation:

- (i) Winding up commences on the passing of a special resolution by members of Park Ltd
- (ii) The directors of the company must make a declaration of solvency, which declares the company will be able to fully repay all its debts within the next 12 months.
- (iii) The members of Park Ltd will then appoint a licensed insolvency practitioner as liquidator.
- (iv) The liquidator will operate to realise the assets of the company and distribute the proceeds according to specific rules of priority.
- (v) The liquidator presents their report to a final meeting of members.
- (vi) Finally the liquidator informs the Registrar of companies, and the company is dissolved 3 months later.

A members' liquidation converts to a creditors' liquidation where it becomes clear to the liquidator that the company is unable to repay its debts in accordance with the declaration of solvency.

In simple terms, this is seen where a company initially considered itself to be in a solvent position, but later it is discovered that in fact it is insolvent.

### 326 STRINE LTD

#### Task 1

- Strine Ltd cannot sell their head office premises without permission from the bank
- In the event of winding up, the bank loan will be repaid in priority to ordinary shareholders

A fixed charge is a legal or equitable mortgage on a specific asset, which prevents the company dealing with the asset without the consent of the mortgagee.

Fixed charges have priority over floating charges in the event of winding up.

#### Task 2

	True	False
Winding up commences on the passing of a special resolution by members of Strine Ltd	X	
A physical meeting of creditors is held within 21 days of the appropriate resolution being passed		X
The directors of Strine Ltd must submit a statement of the company's affairs	X	
A licensed insolvency practitioner is appointed by the creditors of Strine Ltd		X

The Insolvency Act 1986 sets out the following procedures for a creditors' voluntary liquidation:

- (i) Winding up commences on the passing of a special resolution by members of Strine Ltd
- (ii) The members appoint a liquidator. The directors must then deliver a notice to the creditors seeking their decision on the liquidator.
- (iii) The directors of Strine Ltd must send a statement of company's affairs to the creditors within seven working days.
- (iv) The creditors can approve the liquidator either by virtual meeting or by the 'deemed consent' process. Under this process, approval is deemed unless 10% of the creditors of the company raise objections to the proposed liquidator. The members and creditors may appoint up to five persons to serve on a liquidation committee.
- (v) The liquidator is responsible for realising the assets and distributing the proceeds.
- (vi) The liquidator submits his final report to the members and creditors, before informing the Registrar of companies.

## CORPORATE FRAUDULENT AND CRIMINAL BEHAVIOUR

### 327 KEN (A)

#### Task 1

- Placement

Money laundering is the process by which the proceeds of crime are converted into assets which appear to have a legal rather than an illegal source. The aim of disguising the source of the property is to allow the holder to enjoy it free from suspicion as to its source.

Money laundering usually comprises three distinct phases:

#### **Placement**

The initial disposal of the proceeds of criminal activity into an apparently legitimate business activity of property. In this scenario, Ken's bookshop is clearly a front for his money laundering activity.

#### **Layering**

This involves the transfer of money from business to business, or place to place, in order to conceal its initial source.

#### **Integration**

This is the culmination of the previous procedures whereby the money takes on the appearance of coming from a legitimate source.

#### Task 2

- Laundering

If the original money to purchase the bookshop was the product of crime, then that transaction itself was an instance of money laundering. However, even if that was not the case and the bookshop was bought with legitimate money, it is nonetheless the case that it is being used to conceal the fact that the source of much of Ken's money is criminal activity. Ken would therefore be guilty on the primary offence of money laundering under the Proceeds of Crime Act 2002.

Mel is guilty of an offence as she is assisting Ken in his money laundering procedure by producing false accounts. Her activity is covered by the offence of actively concealing and disguising criminal property.

**Task 3**

	<b>2 years</b>	<b>5 years</b>	<b>14 years</b>
Laundering			<b>X</b>
Failure to Report		<b>X</b>	
Tipping Off	<b>X</b>		

Laundering is the most serious offence, and carries a maximum prison sentence of 14 years. The secondary offence of failure to disclose is punishable by a maximum prison sentence of 5 years and tipping off is punishable by a maximum prison sentence of 2 years.

**328 SID AND VIC (A)****Task 1**

- Sid is an insider because he receives the information from his position of a director
- The information is inside information as it relates to particular securities, is specific and has not yet been made public

**Task 2**

- Sid is guilty of an offence of insider dealing by buying shares in Umber plc
- Sid is guilty of an offence of insider dealing when he advises his brother to buy shares in Umber plc

**Task 3**

- Vic has not committed an offence as he did not receive any specific information from Sid which encouraged him to buy the shares in Umber plc
- It is a defence if it can be shown that there was no expectation of profit from the dealing

**329 IRE LTD (A)****Task 1**

- Fraudulent trading can be a civil action and a criminal action
- Wrongful trading can only be a civil action

**Task 2**

- Fraudulent trading must include dishonest intent
- Gram is liable for fraudulent trading

**Task 3**

- Fran is liable for wrongful trading
- Wrongful trading applies only to directors and shadow directors

**330 BRIBERY****Task 1**

	<b>Simran</b>	<b>Paula</b>	<b>Test-it Ltd</b>
s.1 bribing a person to perform a relevant function improperly		<b>X</b>	
s.2 receiving a bribe to perform a relevant function improperly	<b>X</b>		
s.7 failing to prevent bribery			<b>X</b>

Paula is guilty of bribery under s.1 of the Act as she is bribing Simran by offering her a voucher in return for her issuing a health and safety certificate without following the appropriate procedures.

When Simran accepts the voucher and issues the certificate she will be guilty of receiving a bribe from Paula under s.2 of the Act.

Test-it Ltd could be guilty of bribery under s.7 of the Act for failing to prevent bribery unless they can show under s.9 that they had in place 'adequate procedures'.

**Task 2**

- 10 years imprisonment

The maximum prison sentence for someone guilty of a bribery offence is 10 years.

**331 NIT (A)****Task 1**

- The transfer of money from business to business, or place to place, in order to conceal its initial source

Money laundering is a criminal offence under the Proceeds of Crime Act (POCA) 2002. Layering is one of the stages in the overall process of money laundering designed to disguise the illegal source of money. It involves the transfer of money made from illegal sources from place to place and from one business to another in order to conceal the initial illegal source of the money. The layering process may involve many inter-business transfers in an attempt to confuse any potential investigation of the original source of the money.

**Task 2**

	<b>True</b>	<b>False</b>
Nit is committing the offence of money laundering under s.327 Proceeds of Crime Act 2002	<b>X</b>	
By assisting Nit to commit money laundering, Owen is also guilty of an offence under s.327 Proceeds of Crime Act 2002	<b>X</b>	
Pat has no legal duty to disclose his suspicions of money laundering until he acquires actual proof it is taking place		<b>X</b>
Pat must not report suspicions of money laundering without first notifying Nit and giving him a chance to explain		<b>X</b>

The POCA 2002 seeks to control money laundering by creating three categories of criminal offences in relation to that activity.

- **laundering**

The principal money laundering offence relates to laundering the proceeds of crime or assisting in that process. Under s.327, it is an offence to conceal, disguise, convert, transfer or remove criminal property.

- **failure to report**

The second category of offence relates to failing to report a knowledge or suspicion of money laundering. Under s.330 POCA 2002 it is an offence for a person who knows or suspects that another person is engaged in money laundering not to report the fact to the appropriate authority.

- **tipping off**

The third category of offence relates to tipping off. Section 333 POCA 2002 makes it an offence to make a disclosure, which is likely to prejudice any investigation under the Act.

It is apparent from the scenario that all three people involved in the scenario are liable to prosecution under the POCA 2002 as they are involved in money laundering. If the original money to establish the taxi company was the product of crime, then that transaction itself was an instance of money laundering. However, even if that were not the case and the taxi company had been bought from legitimate money, it is nonetheless the case that it is being used to conceal the fact that the source of much of Nit's money is criminal activity.

Nit would therefore be guilty of the primary offence of money laundering under s.327 POCA 2002.

Whether or not Owen is also guilty of an offence in relation to the POCA depends on the extent of his knowledge as to what is actually going on in the company. As he knows what is taking place, then, as he is clearly assisting Nit in his money laundering procedure, his activity is covered by s.327, as he is actively concealing and disguising criminal property. He would also be liable under s.328 as his arrangement with Nit 'facilitates the retention of criminal property'.

Pat is also guilty under the same provisions as Owen, in that he is actively engaged in the money laundering process, by producing false accounts. Had he not been an active party to the process, he might nonetheless have been liable, under s.330, for failing to disclose any suspiciously high profits from the taxi business.

## Section 5

# SPECIMEN EXAM QUESTIONS

### Section A – ALL 45 questions are compulsory and MUST be attempted

- 1 Which of the following may imply terms into contracts?**
- A Statute
  - B Third parties
  - C The parties to the contract
- (1 mark)**
- 2 There are a number of ways in which investors can take an interest in a company and such different interests have different rights attached to them.**
- Which of the following NORMALLY participate in surplus capital?**
- A Preference shares
  - B Ordinary shares
  - C Debentures secured by a fixed charge
  - D Debentures secured by a floating charge
- (2 marks)**
- 3 In the context of the English legal system, which of the following courts ONLY has civil jurisdiction?**
- A Magistrates' court
  - B County court
  - C High Court
- (1 mark)**
- 4 In the context of employment law, which of the following is an AUTOMATICALLY fair ground for dismissing an employee?**
- A Unofficial industrial action
  - B Redundancy
  - C Refusal to join a trade union
  - D Legal prohibition
- (2 marks)**

**5 Which of the following business forms does the use of the abbreviation 'Ltd' after the name of a business indicate?**

- A A limited partnership
- B A limited liability partnership
- C A private limited company (1 mark)

**6** Jas has been continuously employed for six years.

**Which of the following states the minimum period of notice she is entitled to?**

- A One month
- B Six weeks
- C Three months (1 mark)

**7 Which of the following is indicated by the abbreviation 'Ltd' at the end of a company's name?**

- A The shares are not transferable
- B The shares may not be offered to the public
- C The shares are freely transferable on the stock exchange (1 mark)

**8** Section 122 Insolvency Act 1986 specifically provides a distinct ground for applying to have a company wound up on the ground that it is just and equitable to do so.

**Which of the following parties may petition to have a company compulsorily wound up under that provision?**

- A Shareholders of the company
- B Creditors of the company
- C Debenture holders of the company
- D The Secretary of State (2 marks)

**9** Mo has a significant holding in the shares of Nova Ltd. He wishes to use his shareholding to remove Owen from the board of directors but is not sure how to do so.

**Which of the following must be used to remove a director from office?**

- A An ordinary resolution
- B An ordinary resolution with special notice
- C A special resolution
- D A written resolution (2 marks)

**10 A written ordinary resolution requires the approval of which of the following?**

- A More than 50% of the total voting rights of eligible members
- B More than 50% of the total voting rights of members actually voting
- C Unanimous approval of those entitled to vote (1 mark)

- 11** Employment law is a mixture of common law and statutory provisions.  
**Which of the following is purely based on statute law?**
- A Summary dismissal
  - B Unfair dismissal
  - C Wrongful dismissal
- (1 mark)**
- 12** Jo's contract of employment states that she is employed in Glasgow. When her employer tells her that she has to work in London, some 500 miles away, Jo immediately resigns.  
**Which of the following may this be considered an example of?**
- A Unfair dismissal
  - B Constructive dismissal
  - C Summary dismissal
- (1 mark)**
- 13** **Which parties are bound by the terms of the tender when one party submits a tender?**
- A The person submitting the tender
  - B The person requesting the tender
  - C Both parties
  - D Neither party
- (2 marks)**
- 14** **In the context of contract law, a bid at an auction is which of the following?**
- A An invitation to treat
  - B An offer
  - C A counter-offer
  - D An acceptance
- (2 marks)**
- 15** Bee injured her eye after failing to close a safety gate on a machine as instructed. She was also not wearing mandatory safety goggles as required by her contract of employment.  
**Which of the following is this an example of?**
- A Novus actus interveniens
  - B Volenti non fit injuria
  - C Res ipsa loquitur
  - D Contributory negligence
- (2 marks)**
- 16** **What is the effect of a finding of contributory negligence in the law of tort?**
- A It removes the requirement to pay damages
  - B It reverses the payment of damages
  - C It decreases the level of damages
- (1 mark)**



**17 In the context of the English legal system, which of the following courts ONLY has criminal jurisdiction?**

- A Magistrates' court
- B Crown Court
- C County court

**(1 mark)**

**18 Imran claims that Zak owes him £1,000 as a result of a breach of contract.**

**In which court will Imran start his action against Zak?**

- A The magistrates' court
- B The county court
- C The High Court

**(1 mark)**

**19 In the context of case law, which of the following applies to an *obiter dictum*?**

- A It is binding on all future courts
- B It is binding on all lower courts
- C It is not binding on any courts
- D It is not binding outside the court it was issued in

**(2 marks)**

**20 Contributory negligence arises as a result of the fault of which of the following?**

- A The claimant
- B The respondent
- C A third party

**(1 mark)**

**21 Ann got trapped in a public toilet due to the lock being faulty. Rather than wait for help, she tried to climb out of the window but fell and broke her leg.**

**Which of the following is this an example of?**

- A Res ipsa loquitur
- B Volenti non fit injuria
- C Novus actus interveniens
- D Contributory negligence

**(2 marks)**

**22 The law treats employees differently from the self-employed and has established a number of tests to distinguish between the two categories.**

**Which of the following is NOT a test for establishing an employment relationship?**

- A The subordinate test
- B The control test
- C The integration test
- D The economic reality test

**(2 marks)**

- 23 Breach of which of the following terms does NOT allow the possibility of the aggrieved party terminating the contract?**
- A A condition
  - B A warranty
  - C An innominate term
- (1 mark)**
- 24 Which of the following, in the context of entering into a contract, constitutes a binding offer to sell a unique item of furniture?**
- A Placing an advert in a newspaper with a price attached
  - B Placing it on display inside a shop with a price attached
  - C Telling someone the price you may be willing to accept for it
  - D Telling someone you will reduce the marked price on it by 10%
- (2 marks)**
- 25 Mark has received the agenda for the annual general meeting of Rova Ltd, a company he has shares in. The agenda contains a number of resolutions to be proposed at the meeting, but being a new member Mark is not certain as to what is exactly involved.**
- In the context of company meetings, which of the following must be passed by a 75% majority to be effective?**
- A An ordinary resolution with special notice
  - B A special resolution
  - C A written resolution
- (1 mark)**
- 26 Section 122 Insolvency Act 1986 provides a number of distinct grounds for applying to have a company wound up on a compulsory basis.**
- Which of the following is NOT a ground for the compulsory winding up of a company under that provision?**
- A The company has not received a trading certificate within its first 12 months
  - B The company has not started trading within the first 12 months
  - C The company has suspended its business for 12 months
  - D The company has altered its primary business within the first 12 months
- (2 marks)**
- 27 Abe issued an invitation to tender for a contract and Bea submitted her terms.**
- Which of the following statements is accurate?**
- A Abe made an offer which Bea accepted
  - B Abe made an invitation to treat and Bea made an offer
  - C Both Abe and Bea made invitations to treat
  - D Abe made an offer and Bea made a counter-offer
- (2 marks)**

**28 In the context of statutory interpretation, which of the following requires judges to consider the wrong which the legislation was intended to prevent?**

- A The mischief rule
- B The literal rule
- C The golden rule

**(1 mark)**

**29 It is not unusual for some company investments to carry cumulative dividend rights.**

**Which of the following statements about the declaration of cumulative dividends is correct?**

- A They are not paid until profits reach a certain percentage
- B They are paid in the form of a bonus issue
- C They are paid out of capital
- D They are paid when profits are available for that purpose

**(2 marks)**

**30 Which of the following statements in relation to effective consideration is correct?**

- A It must be both adequate and sufficient
- B It must be adequate but need not be sufficient
- C It must be sufficient but need not be adequate

**(1 mark)**

**31 In the context of the English legal system, which of the following defines the *ratio decidendi* of a judgement?**

- A The decision in a previous case
- B The facts of the case
- C The legal reason for deciding the case
- D The future application of the case

**(2 marks)**

**32 Dan has been accused of a criminal offence and is due to be tried soon. He denies responsibility, claiming that the prosecution has no evidence that he committed the offence in question.**

**Which of the following describes the standard of proof in a criminal case?**

- A On the balance of probability
- B On the balance of certainty
- C Beyond reasonable doubt
- D Beyond evident doubt

**(2 marks)**

**33 Which of the following statements relating to limited liability partnerships is correct?**

- A They are limited to a maximum of 20 members
- B They must have a minimum of two members
- C They must have at least one unlimited member

**(1 mark)**

- 34** Ho subscribed for some partly paid-up shares in Io Ltd. The company has not been successful and Ho has been told that when Io Ltd is liquidated, he will have to pay the amount remaining unpaid on his shares. However, he is not sure to whom such payment should be made.

In limited liability companies, shareholders are liable to which party for any unpaid capital?

- A Creditors
- B The directors
- C The company
- D The liquidator

**(2 marks)**

- 35** Which of the following **CANNOT** petition for the compulsory winding up of a company on the grounds of **INSOLVENCY** under s.122 Insolvency Act 1986?

- A The board of directors
- B The members of the company
- C The company's creditors
- D The Secretary of State

**(2 marks)**

- 36** Money laundering involves a number of phases in the overall procedure.

**Which TWO of the following are recognised phases in money laundering?**

- 1 Relocation
- 2 Layering
- 3 Integration
- 4 Distribution

- A 1 and 2
- B 1 and 4
- C 2 and 3
- D 3 and 4

**(2 marks)**

- 37** Which **TWO** of the following are **AUTOMATICALLY** unfair grounds for dismissing an employee?

- 1 Engaging in trade union activity
- 2 Constructive dismissal
- 3 Dismissal on transfer of employment to a new undertaking
- 4 Redundancy

- A 1 and 2
- B 2 and 3
- C 3 and 4
- D 1 and 3

**(2 marks)**

**38 In the context of the law of agency, an agent will NOT be liable for a contract in which of the following instances?**

- A Where the agent fails to disclose that they are acting as such
- B Where the agent intends to take the benefit of the contract and does not disclose they are acting as an agent
- C Where the agent acts on their own behalf although claiming to be an agent

**(1 mark)**

**39 The Employment Rights Act (ERA) 1996 sets out remedies in relation to unfair dismissal.**

**Which of the following is NOT a potential remedy for unfair dismissal under the ERA 1996?**

- A Reinstatement
- B Re-engagement
- C Re-employment

**(1 mark)**

**40 Which TWO statements are correct in relation to designated members in limited liability partnerships (LLPs)?**

- 1 They must not take part in the day-to-day operation of the business
- 2 They are responsible for filing the LLP's accounts
- 3 They are fully liable for partnership debts
- 4 They have limited liability

- A 1 and 4
- B 2 and 4
- C 2 and 3
- D 1 and 3

**(2 marks)**

**41 The term insider dealing relates to a number of potential criminal offences.**

**Which TWO of the following are crimes in relation to insider dealing?**

- 1 Encouraging someone to engage in insider dealing
- 2 Failing to report insider dealing
- 3 Concealing insider dealing
- 4 Passing on inside information

- A 1 and 2
- B 1 and 4
- C 2 and 3
- D 2 and 4

**(2 marks)**

- 42 Which of the following can be accepted so as to form a binding contract?**
- A A supply of information
  - B A statement of intent
  - C A quotation of price
  - D An agreement to enter into a future contract
- (2 marks)**
- 43 Contracts are legally enforceable agreements.**
- Which of the following statements regarding contractual agreements is true?**
- A They must be in writing
  - B They must be evidenced in writing
  - C They need not be in writing
- (1 mark)**
- 44 In relation to the law of negligence, a finding of *volenti non fit injuria* arises from the action of which of the following?**
- A The claimant
  - B The respondent
  - C A third party
  - D An unforeseeable event
- (2 marks)**
- 45 In the context of the law of contract, which TWO of the following statements in relation to a letter of comfort are correct?**
- 1 It is a binding promise to pay a subsidiary company's future debts
  - 2 It is a non-binding statement of present intention to pay a subsidiary company's future debts
  - 3 It is issued by a parent company
  - 4 It is issued by a parent company's bank
- A 1 and 3
  - B 2 and 3
  - C 2 and 4
  - D 1 and 2
- (2 marks)**

**Section B – ALL FIVE questions are compulsory and MUST be attempted**

- 1** Az Ltd operates a shipbuilding business which specialises in constructing and modifying ships to order. In 2011, Az Ltd entered into an agreement with Bob to completely rebuild a ship to Bob's specification for a total contract price of £7 million. However, after completion, Bob informed Az Ltd that, due to the downturn in the world economy, he no longer needed the ship. Az Ltd had already expended £5 million on altering the ship, and immediately started an action against Bob for breach of contract.

However, in the week before the case was to be decided in the court, Az Ltd sold the ship for the same amount of money which they would have received from Bob.

**Task 1** (2 Marks)

**Which TWO of the following statements explain the purposes of awarding damages for breach of contract?**

- They are a punishment for the party in breach
- They compensate the injured party for any financial loss
- They put the parties in the position they were in before the contract was formed
- They put the parties in the position they would have been in had the contract been performed

**Task 2** (2 Marks)

**Which TWO of the following statements in relation to the duty to mitigate losses are correct?**

- It lies with the party who suffers the breach
- It results in an increase of damages
- It lies with the party in breach of contract
- It reduces damages

**Task 3** (2 Marks)

**What level of damages can Az Ltd claim for breach of contract?**

- £7 million
- £2 million
- £0
- £5 million

- 2 Clare, Dan and Eve formed a partnership 10 years ago, although Clare was a sleeping partner and never had anything to do with running the business. Last year Dan retired from the partnership. Eve has subsequently entered into two large contracts. The first one was with a longstanding customer, Greg, who had dealt with the partnership for some five years. The second contract was with a new customer, Hugh. Both believed that Dan was still a partner in the business. Both contracts have gone badly wrong, leaving the partnership owing £50,000 to both Greg and Hugh. Unfortunately the business assets will only cover the first £50,000 of the debt.

**Task 1****(2 Marks)****Which of the following states the liability of Clare as a sleeping partner?**

- She has no liability for partnership debts
- She has full liability for partnership debts
- She has limited liability for partnership debts set at a pre-determined level
- She has limited liability set at the amount she has introduced into the partnership

**Task 2****(2 Marks)****Which of the following describes the liabilities of Dan as a retiring partner?**

- He remains liable to new customers who knew he was a member of the partnership, unless he declared his withdrawal
- He only remains liable for any debts or obligations incurred by the partnership prior to retirement
- His liability for any debts ceases on retirement
- He remains liable to existing customers for a period of six months

**Task 3****(2 Marks)****From whom can Greg claim the outstanding debt?**

- Eve and Dan only
- Eve only
- Eve and Clare only
- Eve, Dan and Clare



- 3** Jon, who is 65 years of age, has just retired from his employment with a pension and a lump sum payment of £100,000. He is keen to invest his money but has absolutely no knowledge of business or investment. He does not wish to take any great risk with his investment but he would like to have a steady flow of income from it.

He has been advised that he can invest in the following range of securities:

- 1 Preference shares
- 2 Ordinary shares
- 3 Debentures secured by a fixed charge
- 4 Debentures secured by a floating charge.

**Task 1**

**(2 Marks)**

**In relation to the above investment forms, which is the most secure?**

- Debentures secured by a fixed charge
- Ordinary shares
- Preference shares
- Debentures secured by a floating charge

**Task 2**

**(2 Marks)**

**In relation to the above investment forms, which may have a cumulative right to dividends?**

- Preference shares
- Debentures secured by a floating charge
- Ordinary shares
- Debentures secured by a fixed charge

**Task 3**

**(2 Marks)**

**In relation to the above investment forms, which NORMALLY participates in surplus capital?**

- Preference shares
- Ordinary shares
- Debentures secured by a fixed charge
- Debentures secured by a floating charge

- 4 In 2008 Ger was disqualified from acting as a company director for a period of 10 years under the Company Directors Disqualification Act 1986 for engaging in fraudulent trading.

However, he decided to continue to pursue his fraudulent business and, in order to avoid the consequences of the disqualification order, he arranged for his accountant Kim to run the business on his instructions. Although Kim took no shares in the company, and was never officially appointed as a director, he nonetheless assumed the title of managing director.

**Task 1****(4 Marks)**

**Identify which of the following categories of director applies to each of Ger and Kim?**

	<i>De facto director</i>	<i>De jure director</i>	<i>Non-executive director</i>	<i>Shadow director</i>
Kim				
Ger				

**Task 2****(2 Marks)**

**Which of the following characteristics apply to non-executive directors?**

- They are involved in the day-to-day business of the company
- They have contracts of employment with the company
- They owe fiduciary duties to the company
- They attend, but do not vote at, meetings

- 5 Fran and Gram registered a private limited company, Ire Ltd, in January 2009, with each of them becoming a director of the company.

Although the company did manage to make a small profit in its first year of trading, it was never a great success and in its second year of trading it made a loss of £10,000.

At that time Fran said he thought the company should cease trading and be wound up. Gram, however, was insistent that the company would be profitable in the long term so they agreed to carry on the business, with Fran taking less of a part in the day-to-day management of the company, although retaining his position as a company director.

In the course of the next three years Gram falsified Ire Ltd's accounts to disguise the fact that the company had continued to suffer losses, until it became obvious that he could no longer hide the company's debts and that it would have to go into insolvent liquidation, with debts of £100,000.

**Task 1** (2 Marks)

Identify which of the following categories of director applies to each of Ger and Kim?

	<i>Civil only</i>	<i>Criminal only</i>	<i>Both civil and criminal</i>
Fraudulent trading			
Wrongful trading			

**Task 2** (4 Marks)

Does fraudulent or wrongful trading apply to each of Fran and Gram?

	<i>Fraudulent trading (s213 Insolvency Act 1986)</i>	<i>Wrongful trading (s214 Insolvency Act 1986)</i>
Fran		
Gram		

## Section 6

# SPECIMEN EXAM ANSWERS

### Section A

1 A

2 B

3 B

4 A

5 C

6 B

7 B

8 A

9 B

10 A

11 B

12 B

13 A

14 B

15 B

16 C

**17 B**

**18 B**

**19 C**

**20 A**

**21 D**

**22 A**

**23 B**

**24 D**

**25 B**

**26 D**

**27 B**

**28 A**

**29 D**

**30 C**

**31 C**

**32 C**

**33 B**

**34 C**

**35 B**

**36 C**

**37 D**

38 A

39 C

40 B

41 B

42 C

43 C

44 A

45 B

**Section B****1 Task 1 (2 Marks)**

- They compensate the injured party for any financial loss
- They put the parties in the position they would have been in had the contract been performed

**Task 2 (2 Marks)**

- It lies with the party who suffers the breach
- It reduces damages

**Task 3 (2 Marks)**

- £0

**2 Task 1 (2 Marks)**

- She has full liability for partnership debts

**Task 2 (2 Marks)**

- He remains liable to new customers who knew he was a member of the partnership, unless he declared his withdrawal

**Task 3 (2 Marks)**

- Eve, Dan and Clare

**3 Task 1 (2 Marks)**

- Debentures secured by a fixed charge

**Task 2 (2 Marks)**

- Preference shares

**Task 3 (2 Marks)**

- Ordinary shares

**4 Task 1 (4 Marks)**

	<i>De facto director</i>	<i>De jure director</i>	<i>Non-executive director</i>	<i>Shadow director</i>
Kim	<b>X</b>			
Ger				<b>X</b>

**Task 2 (2 Marks)**

- They owe fiduciary duties to the company

**5 Task 1 (2 Marks)**

	<i>Civil only</i>	<i>Criminal only</i>	<i>Both civil and criminal</i>
Fraudulent trading			<b>X</b>
Wrongful trading	<b>X</b>		

**Task 2 (4 Marks)**

	<i>Fraudulent trading (s213 Insolvency Act 1986)</i>	<i>Wrongful trading (s214 Insolvency Act 1986)</i>
Fran		<b>X</b>
Gram	<b>X</b>	



