

INSTITUTE OF CHARTERED ACCOUNTANTS OF PAKISTAN	
CERTIFICATE IN ACCOUNTING AND FINANCE (CAF) EXAMINATIONS	
EXAMINERS' COMMENTS	
SUBJECT Business Law	SESSION Certificate in Accounting and Finance – Autumn 2019

Passing %

Question-wise										Overall
1	2	3	4	5	6	7	8	9	10	
62%	20%	2%	48%	14%	25%	45%	25%	44%	33%	23%

General comments:

The overall performance has gradually improved over the past few attempts mainly due to increased focus on company law section. The performance in mercantile law has however remained unsatisfactory. Examinees are therefore, advised to study all topics of the subjects and refrain from selective study. They must strive to improve their communication skills and learn / practice to apply theoretical knowledge of law to scenario based questions.

Question-wise common mistakes observed

Question 1(a)

Good performance was observed in this part of the question.

Question 1(b)

Majority of the examinees correctly defined the persuasive precedent. However, they failed to define declaratory precedent as most of the answers were confined to the statement that declaratory precedents are binding on lower Courts.

Question 2(a)

- The answers mostly revolved around Fauzia's duty to work with reasonable diligence and to render secret profits to her principal.
- Examinees could not deliberate on the duties breached by Fauzia in performance of her responsibilities as an agent.
- With regard to the rights available to Mirza Baig, only handful of examinees identified Mirza Baig's right not to pay remuneration to Fauzia for that part of the business which she had misconducted.

Question 2(b)

Examinees were able to define the term pledge. However, with regard to the conditions in which a pledge made by non-owner is considered to be valid, many examinees failed to identify that pledge made by a person who is in possession of goods under voidable contract and pledge where pawnor has only a limited interest are also considered to be valid pledges.

Question 3(a)

- Most of the answers were incomplete and examinees were unable to differentiate void and voidable contracts.
- Examinees failed to identify the situations in which Shoaib would have been liable to pay and the extent of his liability under the contract.
- Only handful of examinees acknowledged the right of seller to claim for the return of his car through an order of restitution.
- Some examinees considered Shoaib as an agent of Ijaz Munsif (His father).

Question 3(b)

- Examinees failed to identify the presence of undue influence and thought that Ghazala may not succeed as she received a share in business profit.
- Many examinees opined that a gift deed once made cannot be cancelled.
- In view of many examinees, the contract was made under coercion and the burden of prove was on Ghazala.

Question 3(c)

- Examinees failed to identify that a promise made without any intention of performing is equivalent to fraud.
- Examinees also failed to identify whether it was a void or voidable contract.

Question 3(d)

Majority of the examinees thought it to be the contract of guarantee.

Question 4(a)

Good performance was observed in this part of the question.

Question 4(b)

Good performance was observed in this part of the question.

Question 4(c)

Examinees could not appreciate that a contract between partners may be varied by consent of all the partners, whether express or implied in a course of dealing. They thought that conditions mentioned in the partnership agreement prevail under all circumstances and those conditions cannot be changed.

Question 5(a)(i)

Examinees failed to identify that it was an ambiguous instrument. They either thought it to be a promissory note or a bill of exchange and discussed it accordingly.

Question 5(a)(ii)

- Majority of the examinees correctly deliberated that the banker would not be liable on the cheque to Samad. However, they failed to provide any justification in support of their decision.
- Examinees did not comprehend that it is not banker's liability to verify payees and endorsees signature in case of an order cheque.
- Some examinees also opined that there is no such thing as 'Order cheque'. The cheques are either bearer or crossed.

Question 5(b)(i)

Examinees either did not answer this part or their answers were incomplete. Only handful of candidates were able to identify and discuss the conditions in which an acceptance is said to be qualified.

Question 5(b)(ii)

Majority of the answers were incomplete and limited to the statement that a payment made in good faith and without negligence to a person who is in possession of the instrument is called payment in due course.

Question 6(a)

- Examinees either ignored or forgot to write that subscriber to the memorandum becomes member only upon its registration. Similarly, a person to whom shares are allotted becomes member only when his name is entered in the register of members.
- In some cases, examinees also stated that purchasing shares is the only way of becoming a member in a company.

Question 6(b)

- Most of the answers were incomplete as majority of the examinees covered only two or three points.
- Some of the examinees also discussed the provisions of obtaining certificate of commencement of business.

Question 7(a)

- Some examinees were of the view that Registrar can release the mortgage even in absence of information from either party.
- Examinees were unable to identify the time limit within which ELL was required to send intimation to the Registrar.
- Examinees were also not able to appreciate that Registrar was not required to send the notice to the bank if no objection certificate was furnished by the bank along with intimation of payment of loan in full.

Question 7(b)(i)

- Examinees failed to discuss the basic rights of proxy i.e. to attend, speak and vote at the meeting.
- Instead of mentioning the matters relating to proxies which must be included in notice of AGM, few examinees explained the matter to be included in the proxy form.

Question 7(b)(ii)

- Few examinees rightly identified the need for a company to pass a board resolution and authorize an individual who could represent them in the AGM of FWL.
- Examinees could not specify the proxy requirement in this regard.

Question 7(c)

Examinees were not able to identify the condition that 'notwithstanding anything contained in Articles or Agreement between the company and chief executive, chief executive may be removed before expiration of his term of office'.

Question 8(a)

- (i) Good performance was observed in this part.
- (ii) Majority of the answers were incomplete and were confined to the statement that KL can make investment in MPL by passing a Special Resolution and that the rate of return on such investment shall not be less than KL's borrowing cost.

Question 8(b)

Many examinees, though identified Hasan Ali's interest in the contract, failed to discuss that Hasan Ali was required to give the notice of his interest to the directors at their meeting where the question of entering into the contract was first to be taken into consideration.

Question 9(a)

- Most examinees were able to identify only one instance (i.e. lending of money by a banking company) in which the company could provide financial assistance to its own employees.
- Few examinees were able to mention the exception related to provision of money in accordance with the scheme approved by the special resolution.

Question 9(b)

Good performance was seen in this part of the question.

Question 9(c)

Private company was correctly mentioned by most of the examinees. However, other two exceptions were not found in most of the answer scripts.

Question 10(a)

- Many examinees mixed up the rights of existing auditors with the rights of auditor whose name was proposed for appointment.
- Few examinees discussed the procedure for appointment of auditor proposed by a shareholder holding 10% shareholdings in the company.
- Majority of examinees missed the requirements of intimation to registrar and timing of sharing the notice for appointment of new auditor with members.
- Some examinees were of the view that acquirer company is responsible for issuing notice of appointment of new auditor to the members of acquiree company and its uploading on website.
- Many examinees did not mention the number of days within which notice of appointment would send to the members.
- Disqualifications of auditors were discussed which was not required.

Question 10(b)

- Examinees failed to explain the basic concept of independent director. Instead, they listed the scenarios where a director shall not be deemed to be independent, which was not required.
- Most of the examinees were unable to discuss the remuneration payable to directors for attending board meeting, performing extra services and the authority who may approve such remuneration.
- Many examinees suggested that independent directors are not allowed to be paid any sort of remuneration as it would impair their independence.

(THE END)