

INSTITUTE OF CHARTERED ACCOUNTANTS OF PAKISTAN CERTIFICATE IN ACCOUNTING AND FINANCE (CAF) EXAMINATIONS EXAMINERS' COMMENTS	
SUBJECT Business Law	SESSION Certificate in Accounting and Finance – Spring 2020

Passing %

Question-wise										Overall
1	2	3	4	5	6	7	8	9	10	
60%	20%	7%	32%	63%	33%	37%	17%	6%	57%	28%

General comments:

The trend of gradual increase in overall performance continued in spring 2020 examinations as the pass percentage increased from 23% in the previous attempt to 28% in the current attempt. As opposed to the historical trend, a significant improvement was also witnessed in the mercantile law section of the paper.

However, poor performance was observed in question number 2, 3, 8 and 9 which may largely be attributed to selective studies, lack of presentation skills, poor expression, use of incorrect vocabulary and failure to identify and apply relevant knowledge of law to scenario based questions. To overcome these weaknesses, examinees are advised to cover the entire syllabus and while answering the scenario based questions always remember the following basic steps:

- Determine the factual issues important to the decision;
- Identify the relevant law that can be applied to the issue; and
- Finally apply the law and draw a conclusion.

Examinees are also recommended to pay special attention to the suggested answers which are provided on ICAP's website after each examination.

Question-wise common mistakes observed

Question 1(a)

Few examinees erroneously considered habeas corpus as a type of prerogative order.

Question 1(b)

Few examinees instead of writing the disadvantage wrote down the advantages of delegated legislation.

Question 2(a)

- Majority of the answers were incomplete and confined to the statement that since Mohsin was interested in the payment he can recover it back from Qasim Soomro.
- Examinees failed to appreciate the other condition which was necessary for the constitution of quasi-contract that Qasim Soomro was legally bound to pay the land revenue to the Provincial Government.

Question 2(b)

- Examinees were of the opinion that Raheel was bound to withdraw the case against Naeem as he fulfilled his part of the promise.
- Some examinees expressed their opinion without expressing any reason for the decision.

Question 2(c)

- Examinees were unaware of the definition of assignment of contracts. They simply replicated the words from the question that assignment of contract means assigning the contract to some other person. Where in fact, it is the transfer of contractual rights and liabilities to a third party.
- With regard to the rules of assignment, only few examinees were able to state all four rules.
- Many examinees opined that a contract can only be assigned when one of the contracting parties becomes incompetent such as after the death of promisor.

Question 3(a)

- Majority of the answers were incomplete.
- Examinees failed to comprehend that FWL's liability would be different in case, if BM elects to ratify FWL's acts as their agents.
- Some examinees deliberated on the scenario considering it to be the case of fraud.

Question 3(b)

- Majority of the answers were incomplete and except for very few examinees, no one had any idea that a gift needs to be completed for making a binding contract.
- Examinees wrote about the condition of 'Love and affection' as described in section 25 of the Contract Act, 1872, however, they failed to appreciate all the conditions which are necessary for making a valid agreement on account of love and affection.
- Some of the examinees were of the opinion that Furqan Butt is liable to pay Rs. 2 million to Muneer as he fulfilled his part of the promise by getting admission into a European college.

Question 3(c)

Examinees failed to appreciate that Batool's acceptance of the counter offer would have made a binding contract.

Question 3(d)

- Examinees failed to identify the conditions of law in which a contract becomes impossible to perform.
- Majority of the answers were confined to the statement that events which make the contract commercially unviable or non-profitable do not repudiate the contract.
- Examinees also failed to state that in case of non-performance of contract due to difficulty of performance, Imran Traders would be liable for consequential damages.

Question 4(a)i

- Majority of the answers were incomplete. Examinees failed to appreciate that presence of mutual agency relationship is a conclusive evidence of the existence of partnership.
- The answers were limited to the fact that receipt of annuity by Adeeb's widow does not make her a partner in the firm.

Question 4(a)ii

- Most of the answers were incomplete and examinees failed to identify that Bari had exceeded his authority however, Saima and Ahsan had no right to repudiate the transaction as it was entered in the usual course of business and had bound the firm.
- Many examinees did not comprehend that the liability of the partners was joint and several. They thought that it was only Bari who was responsible to make good the loss.
- Few examinees also opined that Bari was responsible to share the profit of Rs. 150,000 with other partners.

Question 4(b)

- Some of the examinees wrongly considered the conditions that a partner cannot assign his partnership interest without approval of other partners and that in case of a fixed partnership a partner cannot leave the firm without the consent of other partners.
- Many examinees stated that a partner cannot open a bank account without mentioning the fact that such account cannot be opened in partner's own name.
- Similarly, most of the examinees wrote that a partner cannot admit any liability without specifying that such liability would be in a suit or proceeding against the firm.

Question 5(a)

Good performance was observed in this part of the question.

Question 5(b)

Majority of the examinees failed to comprehend that Rahat was only entitled to receive Rs. 35,000 from Jahanara.

Question 5(c)

- Many examinees thought that Amjad is not discharged from his liability as it was his duty to pay the amount to the real owner of the bill.
- Examinees failed to identify that the payment made by Amjad under the circumstances was the payment in due course and that when payment is made according to the apparent tenor of the instrument, in good faith and without negligence it discharges the acceptor of the bill.

Question 6(a)

- Examinees could not appreciate that a private company limited by share has the option to set out its own regulations for the company or adopt Table A in the First Schedule to the Companies Act, 2017 as its articles of association.
- Examinees failed to identify that the articles were required to be signed by each of the subscribers in the presence of witnesses who shall attest the signature of the subscribers.
- Examinees did not mention about the implication(s) if articles are not registered or the registered articles do not exclude or modify the regulations in Table A.

Question 6(b)

- Many examinees explained the entire process for election of directors which was not asked.
- Examinees failed to mention that the number of first directors may be increased by appointing additional directors by the members in a general meeting.
- Examinees did not specify the requirements related to First Chief Executive.

Question 7(a)

- Examinees did not know that the transfer of assets takes place only after paying-off the liabilities by the subject company.
- Only few examinees were aware of the fact that CRA can apply for extension to the Commission for transfer of its assets.
- Few examinees were not able to identify that funds may be retained to meet the expenses of voluntary winding up and making an application to the Registrar for striking the name of the company off the register.
- Examinees knew that members and officers of transferor organization will not be eligible to hold office in the transferee organization but did not mention the time period of five years.
- Some of the examinees erroneously mentioned steps related to company's winding up which were not required.

Question 7(b)

- Examinees should learn the elementary difference between "securities" and "shares".
- Instead of mentioning issue of these shares to the members of listed holding company, examinees mentioned issue of shares of a subsidiary company to its listed holding company.

Question 7(c)i

Majority of the examinees did not mention that company can apply to the Commission for extension in initial period of sixty days along with reason(s) for such extension.

Question 7(c)ii

Some of the examinees did not mention that company is also required to publish the prospectus on its website. Those who mentioned about the website publication, failed to appreciate the timing of its publication on the web.

Question 8(a)

- Most of the examinees, without paying any heed to the requirement of the question, mixed up the provisions of declaration of interim dividend with the payment of dividend.
- With regard to the responsibilities of GIL for the payment of interim dividend, examinees failed to mention that since dividend was payable in cash, it was to be paid through electronic mode, directly into the bank account designated by the entitled shareholder.

Question 8(b)

This part was well attempted.

Question 8(c)

Examinees incorrectly mentioned that the company was required to obtain approval of the Commission for the adjustment of the dividend against any sum due from the shareholder.

Question 9

- Some of the examinees produced the list of normal and special businesses usually transacted at the general meeting.
- Many examinees deliberated on the complete procedure of election of directors and appointment of independent director, which was not required.
- Few examinees unnecessarily wrote about the procedure of fixing the number of directors before election at the general meeting.
- Examinees failed to appreciate member's right to appoint proxy and rights of such proxy holders.
- Majority of the examinees did not mention that a statement is required to be annexed to the notice of the meeting setting out all material facts concerning such special business, including, in particular, the nature and extent of the direct or indirect interest, if any, therein of every director and where any item of business consists of the according of an approval to any document by the meeting, the time when and the place where the document may be inspected.
- Some examinees discussed the provision relating to the publication of notice in the newspaper which had no relevance to the requirement of the question.

Question 10(a)

- Many examinees were not aware of the fact that in case a partner's spouse is elected as a director at client's office, not only the partner but the firm itself becomes disqualified to be appointed as an auditor at that client.
- Examinees did not appreciate the time frame when LMC had deemed to have vacated the office as auditor. They also failed to discuss how casual vacancy in the office of the auditor would have been filled by NHL.

Question 10(b)

This part was well attempted.

The End