

Professional Stage Examination (PSE)

Business and Company Law

Module Outline

BUSINESS AND COMPANY LAW

LEARNING OUTCOME

To ensure that students have a sound knowledge and understanding of the legal implications of business transactions as well as the statutory requirements applicable to the management and administration of companies.

INTRODUCTION

This paper covers Business Law (30%) and Company Law (70%).

The Business Law syllabus is designed with the aim that students should be able to understand the implications of business contracts. An understanding of the law of partnership and agency is essential particularly in relation to the legal environment within which businesses operate.

Company Law is an important area in the training of Certified Public Accountants as it has direct impact on their work either as auditors, accountants, company secretaries or insolvency practitioners. The syllabus is thus designed to equip students with a strong knowledge of the statutory requirements pertaining to the formation, financing, management and administration of a company. In addition, corporate governance requires a sound knowledge of the duties and responsibilities of directors, company secretaries and managers. Students are expected to be familiar with the provisions of the Companies Act 2016 and other laws and regulations in the legal framework governing the operation of companies. They must also be aware of important recent developments in the legal framework affecting companies.

Students can expect some of the questions to be integrative, testing on the application of both parts of the syllabus.

SYLLABUS WEIGHTING

SYLLABUS CONTENT AREA		WEIGHTING
Business Law (30%)	Contract law	20%
	Agency and partnership law	10%
Company Law (70%)	Formation of company	10%
	Capital and financing of a company	20%
	Management and administration of a company	15%
	Company transformation, receivership, and winding up	20%
	Limited Liability Partnership	5%
Total:		100%

EXAMINATION FORMAT

A 3-hour written paper consisting of two parts:

Section A	2 compulsory questions	40%
Section B	Choice of 4 from 6 questions	60%

SYLLABUS CONTENT

LEVEL

BUSINESS LAW

1. Contract Law

- | | | |
|-----|---|----------|
| a | Essential elements of a contract | A |
| i | Proposal (Offer) | |
| ii | Acceptance | |
| iii | Consideration | |
| iv | Intention to create legal relations | |
| v | Certainty | |
| vi | Capacity | |
| b | Terms of contract | A |
| i | Terms | |
| ii | Exclusion clauses | |
| c | Void, voidable and illegal agreements | B |
| i | Void and voidable contracts | |
| ii | Contracts in restraint of trade | |
| iii | Contracts in restraint of legal proceedings | |
| iv | Unlawful agreements | |
| v | Consequences | |
| d | Factors vitiating a contract | B |
| i | Coercion | |
| ii | Undue influence | |
| iii | Misrepresentation | |
| iv | Fraud | |
| v | Mistake | |
| e | Discharge of contract | B |
| i | Performance | |
| ii | Agreement | |
| iii | Impossibility or frustration | |
| iv | Breach | |
| f | Remedies for breach of contract | B |
| i | Rescission of contract | |
| ii | Damages | |
| iii | Specific performance | |
| iv | Injunction | |
| v | Quantum meruit | |

2. Agency and Partnership Law

- | | | |
|-----|--|----------|
| a | Agency | B |
| i | Creation of agency | |
| ii | Duties of agent and principal | |
| iii | Agent's authority | |
| iv | Effects of agency on contract with third persons | |
| v | Termination of agency | |

- b Partnership **B**
 - i Nature and definition of partnership
 - ii Relation between partners and persons dealing with them
 - iii Relation of partners to one another
 - iv Partnership Property
 - v Dissolution of partnership

COMPANY LAW

- 3. Formation of a Company** **B**
 - a Types of companies
 - i Types of companies
 - ii Company limited by shares
 - iii Company limited by guarantee
 - iv Unlimited company
 - v Private Company
 - vi Public Company
 - vii Exempt private company
 - viii Holding and subsidiary companies
 - ix Wholly-owned subsidiary
 - x Related company
 - xi Foreign company
 - xii Unregistered companies
 - b The principle of corporate personality and the effect of incorporation
 - i Companies, partnerships and sole traders
 - ii The principle of corporate personality
 - iii Lifting the veil of incorporation
 - iv A company's liability for torts and crimes
 - c Company incorporation
 - i Registration procedure
 - ii The company name
 - iii The registered office
 - iv Commencement of business
 - v Promoters
 - vi Pre-incorporation contracts
 - vii Form of contract
 - viii Common seal of company
 - d Constitution
 - i Purpose and contents of the constitution
 - ii Adoption of a constitution
 - iii Constitution as contract
 - iv Alteration of the constitution
 - v Shareholders' agreements
 - e Capacity of a company and the doctrine of *Ultra Vires*
 - i Capacity of a company
 - i Objects of a company
 - ii Powers of a company

- iii The doctrine of *ultra vires*
- iv Alteration of objects clause

4. Capital and Financing of a Company

A

- a Share capital
 - i The nature of shares
 - ii The meaning of capital
 - iii Classes of shares
 - iv Variation of class rights
 - v Issue of interests other than shares
- b Issue and transfer of shares
 - i Allotment and issue of shares
 - ii Methods of allotment and issue of shares
 - iii Rights issues and bonus issues
 - iv Allotment of shares by a public company
 - v Return of allotments
 - vi Share certificates
 - vii Procedure for transfer of shares
- c Capital maintenance, change of capital, reduction of capital
 - i Reduction of share capital
 - ii Redemption and purchase by a company of its own shares
 - iii Financial assistance for purchase of own shares
 - iv Change or alter company's share capital
- d Dividends
 - i Distribution and payment of dividends
 - ii Declaration of dividends
 - iii Distributable profits and solvency test
 - iv Infringement of dividend rules
- e Loan capital
 - i Borrowing powers
 - ii Debentures for different business models
 - iii Charges
 - iv Registration of charges
 - v Debenture holders' remedies
- f The regulation of companies with publicly traded securities
 - i Issues of securities under the CMSA
 - ii Listing on the Main Market, the ACE Market and the LEAP Market
 - iii Continuing listing obligation
 - iv False or misleading statements under CMSA
 - v Provisions applicable to Listed Corporations under CMSA
 - vi Directors training for Listed Corporations
 - vii Audit Oversight Board (AOB) for public interest entities

5. Management and Administration of a Company

A

- a Directors
 - i Definition of director
 - ii Appointment of directors
 - iii Qualification and disqualification of directors

- iv Vacation of office
- v Removal of directors
- vi Payments to directorship
- b Directors' duties
 - i Fiduciary duties
 - ii Duty of care, skill and diligence
 - iii Remedies for breach of duty
 - iv Relief for breach of duty
- c Directors' transactions with the company
 - i Loans to directors
 - ii Substantial property transactions – Sections 223 & 228
 - iii Disclosure of interests in contracts
 - iv Insider trading under Capital Markets & Services Act 2007
- d Directors' Powers
 - i The extent of directors' powers
 - ii Board meetings
 - iii Managing directors
 - iv The chairman
 - v Members' control of directors
 - vi Liability of the company for unauthorized acts of directors
 - vii The 'indoor management' rule
 - viii Agency by holding out
- e Company Secretary
 - i Qualifications for appointment as a company secretary
 - ii Duties of a company secretary
 - iii Status and liabilities of a company secretary
- f Shareholders
 - i Becoming a member
 - ii Register of members
 - iii Particulars of shareholding
 - iv Rights of shareholders of different classes
 - v Majority control and the protection of minority shareholders
 - vi Other statutory rights
 - vii Cessation of membership
- g Meetings and proceedings
 - i The importance of meetings
 - ii Types of meetings
 - iii Board meetings
 - iv Class meetings
 - v General meetings of a company
 - vi Convening a meeting
 - vii Quorum
 - viii Proxies
 - ix Types of resolutions
 - x Conducting meetings of members
 - xi The assent principle
 - xii Irregularities in meetings
- h Related party transactions

- i Definitions
- ii Related party transactions
- iii Recurrent related party transactions of a revenue nature
- i The Malaysian Code on Corporate Governance
 - i The board of directors
 - ii Independent directors
 - iii The Audit Committee
 - iv The relationship between the board and shareholders
 - v Directors' training
 - vi Shareholder activism

6. Company Transformation B

- a Reconstructions, mergers, takeovers and corporate rescue
 - i Concept of reconstruction
 - ii Schemes of arrangement or compromise (Section 366)
 - iii Reconstruction and amalgamation (Section 370)
 - iv Rights of offeror to buy out under the Companies Act 2016 (Section 371)
 - v Takeovers under the Takeovers and Mergers Code 2016
 - vi Corporate Rescue (Division 8)
 - vii Corporate Voluntary arrangement
 - viii Judicial Management

7. Receivership and Winding Up B

- a Receivers and Receivership
 - i Receivers and receivers & managers
 - ii Retention of Title (Romalpa) clauses
- b Liquidation
 - i Methods of dissolution
 - ii Compulsory liquidation
 - iii Voluntary liquidation
 - iv Contributories of present and past members
 - v Liquidators
 - vi Receivers and liquidators
- c Transactions arising in a liquidation
 - i Treatment of assets
 - ii Proof of debts
 - iii Secured creditors
 - iv Order of application of assets in liquidation
 - v Fraudulent trading

8. Limited Liability Partnership B

- i What is a Limited Liability Partnership (LLP)
- ii Registration for incorporation
- iii Post incorporation
- iv Partners
- v Conversion to Limited Liability Partnership
- vi Receivership, winding-up, dissolution and strike off
- vii Foreign Limited Liability Partnership

Level A	A thorough and detailed knowledge and substantial comprehension, together with the ability to solve problems where candidates have to select the information required from the fairly unstructured data provided and exercise professional judgement.
Level B	A detailed knowledge of the principles, concepts and techniques with the ability to solve problems where the information is clearly indicated.
Level C	An overview or current awareness only.

RECOMMENDED BASIC TEXTS

MICPA	Business and Company Law Study Manual	MICPA
Business Law		
Adnan Trakic Vohrah & Wu Min Aun	Law for Business The Commercial Law of Malaysia	Sweet and Maxwell Longman
Company Law		
Aiman Nariman Mohd Sulaiman & Effendy Othman Chan Wai Meng	Malaysia Company Law: Principles and Practices Essential Company Law in Malaysia: Navigating the Malaysian Companies Act 2016	Wolters Kluwer Sweet & Maxwell Asia
Cheah Foo Seong	Company Act 2016 (Overview)	Sweet & Maxwell Asia
Shanthy Thuraisingham, Anil Joshi & Sujata Balan	Concise Principles of Malaysian Company Law	LexisNexis

Relevant Statutes and Regulatory Guidelines

Capital Markets and Services Act 2007
Companies Act 2016
Companies Commission of Malaysia Act 2001
Contracts Act 1950
Financial Reporting Act 1997
Income Tax Act 1967
Insolvency Act 1967
Interest Schemes Act 2016
Limitation Act 1953
Limited Liability Partnerships Act 2012
Malaysian Code on Take-Overs and Mergers 2016
Mental Health Act 2001
Partnership Act, 1961

Securities Commission Malaysia Act 1993
Securities Industry (Central Depositories) Act 1991

Last updated: August 2022