

Applied Business

Advanced GCE

Unit **F256**: Business Law

Mark Scheme for June 2012

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All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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Annotations

	The response given is 'Unclear' to the marker.
	'Benefit of doubt' but credit given.
	To indicate the response is in 'Context' of the relevant case study.
	Response is incorrect, no credit can be given.
	Use for Level of response answers to indicate Level 1.
	Use for Level of response answers to indicate Level 2.
	Use for Level of response answers to indicate Level 3.
	Use for Level of response answers to indicate Level 4.
	The response is not incorrect but has 'Not answered the question'.
	Own figure rule. Use where indicated in the mark scheme.
	'Repeat' Response repeats the same marking point.
	'Noted but no credit given' or to indicate all or part blank answer pages have been seen by the marker.
	Correct point/answer. Credit can be given.

Subject-specific Marking Instructions**Testing of QWC**

In this external assessment the assessment of QWC will take place in Question 1f which is a levels of response question and carries 14 marks.

Marks are embedded within this question for assessing the quality of written communication. The following criteria are embedded within the levels of response for Question 1f.

Level 4:

Ability to present relevant material in a well planned and logical sequence. Material clearly structured using appropriate business terminology confidently and accurately. Sentences, consistently relevant are well structured in a way that directly answers question. There will be few, if any errors of grammar, punctuation and spelling.

[4 marks representing the appropriate level of written communication are embedded in this level of response].

Level 3:

Ability to present relevant material in a planned and logical sequence. Appropriate business terminology used. Sentences for the most part relevant presented in a balanced, logical and coherent manner which addresses the question. There will be occasional errors of grammar, punctuation and spelling.

[3 marks representing the appropriate level of written communication are embedded in this level of response]

Level 2:
Limited ability to organise relevant material. Some appropriate business terminology used. Sentences are not always relevant with material presented in a way that does not always address the question. There may be noticeable errors of grammar, punctuation and spelling.

[2 marks representing the appropriate level of written communication are embedded in this level of response]

Level 1:

Ability to communicate at least one point using some appropriate business terminology. Sentences have limited coherence and structure, often being of doubtful relevance to the main focus of question. Errors of grammar, punctuation and spelling may be noticeable and intrusive.

[1 mark representing the appropriate level of written communication is embedded in this level of response]

Question		Answer	Marks	Guidance
1	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> • all profits or losses to be shared • no capital withdrawal allowed • if a partner leaves or dies, the partnership must be dissolved • no partner can be paid a salary • partners can be indemnified for expenses • sick pay cannot be paid • all partners are jointly (and severally) liable for the debts of the partnership • each partner is an agent of the firm making decisions on behalf of all other partners • no interest is payable on capital • all partners allowed a say in decision making. <p>Eg No capital withdrawal is allowed (1); Kelvin and Paul would not be able to make drawings on any money they have invested in <i>TCC</i> (1).</p> <p>Eg Partners cannot be paid a salary (1) but any out of pocket expenses they incur can be paid (1).</p> <p>Eg Kelvin and Paul must share the profit (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for a correct identification, to a maximum of two, plus up to one further mark for each of two explanations.</p> <p>Do not accept '2 -20 members' as this is not a provision of the Partnership Act (it is a provision of the Companies Acts).</p> <p>No context required.</p>

Question	Answer	Marks	Guidance
(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> • used to overrule the Partnership Act • can be referred to in disputes • clarifies operations • personalises the partnership • can be referred to in dissolution • show prospective partners. <p>Eg They can overrule the Partnership Act (1) and pay partners sick pay if ill (1).</p> <p>Eg It can be referred to in case of dispute (1) so if Kelvin and Paul split up and wished to end the partnership, they could refer to the arrangements stated in the Deed (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for an advantage, to a maximum of two, plus up to one further mark for each of two explanations.</p> <p>Advantage required, not just a statement about a Deed of Partnership. Eg 'It states the responsibilities of partners' (0), 'written' (0) or 'formalises' (0).</p>
(c)	<p>Indicative content: Income Tax</p> <p>Eg Income (1)</p>	1	<p>AO1 1</p> <p>One mark for a correct identification.</p> <p>'Income' is sufficient to award the mark.</p>
(d)	<p>Indicative content:</p> <ul style="list-style-type: none"> • satisfactory quality • as described • fit for purpose • entitled to repair, replacement or refund. <p>Eg Goods must be as described (1).</p> <p>Eg Goods must be of merchantable quality (1).</p> <p>Eg The sweets must be fit for eating (1).</p>	3	<p>AO1 3</p> <p>One mark for a correct identification, to a maximum of three.</p> <p>Accept 'merchantable quality' for 'satisfactory quality'.</p> <p>Do not accept 'high/reasonable quality' or similar as it is incorrect. Eg Items sold must be of good quality (0).</p> <p>No context required.</p>

Question	Answer	Marks	Guidance
(e)	<p>Indicative content:</p> <ul style="list-style-type: none"> • units must be metric • weights should be stated at point of sale • weights should be accurate • contents should match labelling • weights and measures not misleading • check scales/weighing equipment. <p>Eg Goods need to be sold in metric (1), they need to weigh in grams (1).</p> <p>Eg The weights must be accurate (1), an underweight bag of sweets could lead to prosecution (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for a correct identification, to a maximum of two, plus up to one further mark for each of two explanations.</p> <p>No context is required.</p>
(f)*	<p>Use levels of response criteria.</p> <p>Relevant legislation:</p> <ul style="list-style-type: none"> • Sale and Supply of Goods Act • Trade Descriptions Act • Weights and Measures Act • Data Protection Act (if use of record keeping assumed) <p>Indicative content:</p> <ul style="list-style-type: none"> • need knowledge of legislation • training – time, money • opportunity cost • is something else of greater importance? • a legal requirement • avoidance of legal claims – length of time sorting matter out, compensation claims • short run increase in costs, long run save from expensive compensation claims • avoid unwanted publicity 	14	<p>AO1 2 AO2 3 AO3 4 AO4 5</p> <p>This question has embedded marks for QWC.</p> <p>Do not award responses relating to safety, customer service or customer loyalty.</p> <p>Must be impacts on the business rather than the customer/consumer.</p> <p>Level 4 – (10 - 14 marks) Candidate evaluates the advantages and/or disadvantages to <i>TCC</i> of making consumer protection a priority.</p> <p>Level 3 – (6 - 9 marks) Candidate analyses the advantages and/or disadvantages to <i>TCC</i> of making consumer protection a priority.</p> <p>Level 2 – (3 - 5 marks) Candidate applies knowledge of consumer protection legislation to <i>TCC</i>, describing actions/procedures that should/should not be followed.</p>

Question			Answer	Marks	Guidance
			<ul style="list-style-type: none"> satisfied customers, increased sales, increased profits preservation of reputation important because this new business needs to get established cannot use false advertising to increase footfall. <p>Eg The Weights and Measures Act states that all measurements must be accurate (L1). When weighing out sweets (CONT) in the shop Kelvin and Paul must give the customer at least the number of grams they are paying for (L2). By doing this, they will keep to a minimum the number of complaints they receive (L3) and reduce the chances of receiving bad publicity (L3). Since without customers they will not sell the sweets (CONT) and make a profit, it is very important that they encourage repeat customer and good consumer protection procedures is a powerful way to do this (L4).</p>		<p>Level 1 – (1 - 2 marks) Candidate demonstrates knowledge of consumer protection with no use of context.</p> <p>Please indicate each time a candidate achieves a particular level as this will help you allocate marks within that level.</p> <p>Context should be annotated every time L2/L4 is awarded with the 'CONT' annotation.</p> <p>Non-contextual answer max Level 1.</p>
2	(a)	(i)	<p>Indicative content:</p> <ul style="list-style-type: none"> consideration intention (to be legally bound) capacity legality. <p>Eg Consideration (1) both parties must offer something in exchange (1).</p> <p>Eg Legality (1). The sweets must not contain any illegal substances in their recipe (1).</p>	6	<p>AO1 3 AO2 3</p> <p>One mark for a correct identification, to a maximum of three, plus up to one further mark for each of three developments.</p> <p>Do not award 'offer' or 'acceptance' as these are excluded by the question.</p>
	(a)	(ii)	<p>Indicative content:</p> <ul style="list-style-type: none"> as described matching sample no false advertising 	1	<p>AO1 1</p> <p>One mark for a correct identification.</p>

Question	Answer	Marks	Guidance
	<p>Eg As described (1).</p> <p>Eg Goods must match description (1).</p> <p>Eg Sweets must be the same as the sample provided when the contract was drawn up (1).</p>		No context required.
(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> • House of Commons/The Commons • House of Lords/The Lords • Houses of Parliament/Parliament. <p>Eg House of Commons (1).</p>	1	<p>AO1 1</p> <p>One mark for a correct identification.</p> <p>Accept house/houses.</p>
(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> • register the name of <i>Candee Kicks</i> as a trade mark/brand • use the Trade Marks Act to register a logo for the <i>Candee Kicks</i> brand • patent the concept of football sweets • use the Copyrights, Designs and Patents Act to protect the stripy design of the football sweets • use the Copyrights, Designs and Patents Act to patent the recipe. <p>Eg <i>Candee Kicks</i> should be registered as a trade mark (1), so that the sweets can be advertised more effectively (1).</p> <p>Eg <i>TCC</i> should apply for a patent on the recipe (1) so that it could sell or licence the use of the recipe at a later date (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for a correct identification, to a maximum of two, plus up to one further mark for each of two explanations.</p> <p>Name of legislation not required.</p> <p>Must be methods ie how to use.</p>

Question	Answer	Marks	Guidance
3 (a)	<p>Indicative content:</p> <ul style="list-style-type: none"> • responsible for damage/harm/injury • no need to be at fault/proof of negligence not required. <p>Eg Negligence does not need to be proved (1), you can be found guilty simply because you have hurt someone (1).</p> <p>Eg An organisation can be forced by the courts to pay compensation for damage it has caused (1) without the need for the plaintiff to prove it was being negligent (1).</p>	2	<p>AO1 2</p> <p>Up to two marks.</p> <p>No context required.</p> <p>Do not award examples.</p>
(b)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • manufacturer liable • unsafe product • caused damage/harm • labelling/packaging/warnings • used appropriately • covers third parties – customer and consumer <p>Eg The Consumer Protection Act covers third party users of a product (L1) and not just the person who bought the product (L1).</p> <p>Eg The Consumer Protection Act protects customers who have been harmed by a product (L1), they can claim against the manufacturer (L1) without having to prove that the producer was in some way negligent (L1). In this case <i>TCC</i> made the product (L2) and since negligence does not need to be proved (L2) <i>TCC</i> will be found legally accountable (L2) unless it has a valid defence (L2).</p>	6	<p>AO1 2 AO2 4</p> <p>Level 2 (3 – 6 marks) Candidate explains how the principle of Consumer Protection would make <i>TCC</i> liable for the injury caused to Gina's uncle.</p> <p>Level 1 (1 - 2 marks) Candidate shows knowledge of the provisions of the Consumer Protection Act but with no application to the injury caused to Gina's uncle.</p> <p>Level annotation required.</p> <p>No matter how detailed a candidate's knowledge of the Consumer Protection Act, if it is not applied to the injury caused to Gina's uncle it must be awarded L1 and a maximum of 2 marks.</p> <p>A candidate who has given an accurate explanation which is applied to the injury caused to Gina's uncle must be awarded L2 and a minimum of 3 marks.</p>

Question	Answer	Marks	Guidance
(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> • Paul's capital would remain in the business • Paul's more likely to return to the business at a future date • Kelvin less likely to make rash decisions as he will be responsible for his brother's money as well as his own • the partnership will not need to be dissolved. <p>Eg Paul would not take his money out of <i>TCC</i> (1) therefore more resources would be available for expansion (1).</p> <p>Eg <i>TCC</i> is less likely to need a bank loan (1) because Paul's capital will remain in the business (1).</p> <p>Eg The partnership will not have to be dissolved (1) saving time and money which could be better used promoting the business (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for a correct benefit, to a maximum of two, plus up to one further mark for each of two explanations.</p> <p>Advantage required, not just a statement about limited partnerships.</p>
(d)	<p>Indicative content:</p> <ul style="list-style-type: none"> • consult Deed of Partnership • Kelvin and Paul should have a meeting • contact the bank • prepare final accounts • pay creditors • repay any loans to partners • repay partners' capital • surplus paid to partners in agreed ratio. <p>Eg All creditors should be paid (1) the full amount of what they are owed (1).</p> <p>Eg Final accounts would need to be prepared (1) and the balance divided amongst the partners (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for a correct identification, to a maximum of two, plus up to one further mark for each of two explanations.</p> <p>Must be actions/steps.</p> <p>Do not award points made which relate to company dissolution – appointing liquidators/administrators etc.</p>

Question	Answer	Marks	Guidance
(e)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • limited funds, no contribution of partner's capital • decision as to the future of the business rests entirely with Kelvin • no one with whom to share workload, holidays, time-off • lack of additional expertise, no one to discuss ideas with • Paul's personality will no longer balance Kelvin's • not accountable to a partner • management may not be as strong leading to poor decisions • less paperwork • not bound by joint and several liability • banks less willing to lend to a sole trader • expansion limited by time, experience and financial constraints • Kelvin may take business in a different direction • Kelvin can choose to plough back all profits if he wishes, as profits no longer have to be shared. • more creative but less organised • need employees/manager. <p>Eg <i>TCC</i> will lose the capital which Paul currently has invested in the business (L1). Also a sole trader has no partner to discuss business strategy with (L1). Kelvin may struggle to make good decisions on his own because of his unrealistic (CONT) expectations (L2). As this is not his strength he may lead <i>TCC</i> in the wrong direction causing cash-flow problems (L3). By far the greatest impact on <i>TCC</i>'s future is likely to be the limited amount of capital available because without capital the confectionery</p>	14	<p>AO1 2 AO2 3 AO3 4 AO4 5</p> <p>NB Limited liability is not an issue.</p> <p>The candidate has not been asked to decide whether or not <i>TCC</i> should become a sole trader. Such a conclusion should not be awarded.</p> <p>Level 4 – (10 - 14 marks) Candidate evaluates the impact(s) to <i>TCC</i> of being a sole trader rather than a partnership.</p> <p>Level 3 – (6 - 9 marks) Candidate analyses the impact(s) to <i>TCC</i> of being a sole trader rather than a partnership.</p> <p>Level 2 – (3 - 5 marks) Candidate explains the difference(s) between being as a sole trader/partnership applicable to <i>TCC</i>.</p> <p>Level 1 – (1 - 2 marks) Candidate demonstrates knowledge of sole trader/partnerships with no use of context.</p> <p>Please indicate each time a candidate achieves a particular level as this will help you allocate marks within that level.</p> <p>Context should be annotated every time L2/L4 is awarded with the 'CONT' annotation.</p> <p>Non-contextual answer max Level 1.</p>

Question		Answer	Marks	Guidance
		(CONT) business will find it difficult to survive, let alone expand (L4).		
4	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> • pay on time • provide safe working conditions • provide necessary training • not undermine trust and confidence • not to be negligent. <p>Eg Must provide a safe working environment (1).</p> <p>Eg Kelvin must ensure the employees are paid their wages (1).</p> <p>Eg Train staff (1).</p>	2	<p>AO1 2</p> <p>One mark for a correct identification, to a maximum of two.</p> <p>Do not award statutory or contractual obligations.</p> <p>No context required.</p>
	(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> • pay at least the national minimum wage. • need to know employees' age to calculate the minimum rate • must grant pay increases in line with changes in national minimum wage legislation • increased costs, decreased profits • legal action if violated • bad publicity/reputation if violated. <p>Eg TCC must pay the three employees at least the national minimum wage (1). This may mean Kelvin has to pay out more than he wanted to (1).</p> <p>Eg The wages of a young employee will increase as an age threshold is passed (1), increasing TCC's labour costs (1).</p>	2	<p>AO1 1 AO2 1</p> <p>One mark for a correct identification plus up to one further mark for an explanation.</p> <p>Must be an impact, not just a statement.</p> <p>Do not award 'has to pay the minimum wage'.</p>

Question	Answer	Marks	Guidance
	<p>Eg <i>TCC</i> will be in legal trouble (1) if it does not pay its employees at least the national minimum wage (1).</p>		
(c)	<p>One mark for a correct identification plus up to one further mark for an explanation.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • employees entitled to a break (at least 20 minutes during a 6 hour shift) • Break must be uninterrupted • Break must be away from their work • 11 hours off between shifts • Limits to length of working week (max 48 hours in average week). <p>Eg Breaks should be away from work (1) therefore Kelvin must not ask staff to remain on the shop floor during their break (1).</p> <p>Eg Rotas must be designed which do not exceed the maximum weekly working week (1), which is 48 hours on average (1).</p>	2	AO1 1 AO2 1
(d)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • employer responsible for an employee's actions during the course of employment • not on a frolic of their own. <p>Eg Vicarious liability states that an employer is responsible for an employee's actions (L1) but only during the course of their employment (L1). Kyle used a rope to tether the specials board which he had been instructed to display every day therefore he was doing his job (L2) and <i>TCC</i> is</p>	4	<p>AO1 2 AO2 2</p> <p>Level 2 (3 – 4 marks) Candidate explains how the principle of vicarious liability would make <i>TCC</i> liable for the damage caused to Niran's laptop in Incident One.</p> <p>Level 1 (1 - 2 marks) Candidate shows knowledge of the principle of vicarious liability but with no reference to Incident One.</p>

Question	Answer	Marks	Guidance
	<p>liable for the damage caused through Kyle's negligence (L2).</p> <p>Eg Vicarious liability is when an employer is responsible for the actions of an employee (L1) during working hours (L1) when not on a frolic of their own (L1).</p>		<p>No matter how detailed a candidate's explanation of vicarious liability, if it is not applied to Incident One it must be awarded L1 and a maximum of 2 marks.</p> <p>A candidate who has given an accurate explanation applied to Incident One must be awarded L2 and a minimum of 3 marks.</p> <p>Level annotation required.</p>
(e)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • employee contributes to injury • employee caused the situation • makes injury worse • makes injury more likely • disobeys orders/fails to follow procedures • ignores training. <p>Eg Contributory negligence is when an employee is judged partially to blame for an injury sustained at work (L1). Philippa tripped over a polishing machine which she, herself had put there overnight (L2). If the machine had not been left there she would not have tripped over it, therefore she is partly to blame (L2).</p> <p>Eg An employer is usually held liable for an injury caused to an employee at work (L1). However, if it can be shown that the employee in some way caused the accident, or made it worse, then the compensation awarded would be reduced (L1).</p>	4	<p>AO1 2 AO2 2</p> <p>Level 2 (3 – 4 marks) Candidate explains why the concept of contributory negligence would affect the level of damages awarded to Philippa due to her injuries sustained in Incident Two.</p> <p>Level 1 (1 - 2 marks) Candidate shows knowledge of the concept of contributory negligence but with no reference to Incident Two.</p> <p>No matter how detailed a candidate's explanation of contributory negligence if it is not applied to Incident Two it must be awarded L1 and a maximum of 2 marks. A candidate who has given an accurate explanation applied to Incident Two must be awarded L2 and a minimum of 3 marks.</p> <p>Level annotation required.</p>

Question	Answer	Marks	Guidance
(f)	<p>Indicative content:</p> <ul style="list-style-type: none"> • Common law • Disability Discrimination Act • Race Relations Act • Sex Discrimination Act • Equal Pay Act • The Employment Equality (Age) Regulations • Employment Rights Act • Employment Relations Act • Minimum Wage Act • Working Time Regulations <p>Issues include:</p> <ul style="list-style-type: none"> • recruitment and selection procedures • equal opportunities • discrimination • contracts of employment • common law duties • dismissal – fair/unfair, wrongful, constructive • minimum wage • breaks/working time. <p>Consequences:</p> <ul style="list-style-type: none"> • time • money • bureaucracy • administrative support • opportunity cost • court action • publicity <p>Eg Complying with employment protection legislation takes up valuable time (L1). As Kelvin let Paul do all of the organising (CONT) he may need to go on a training course</p>	14	<p>AO1 2 AO2 3 AO3 4 AO4 5</p> <p>Do not award points relating to health and safety or consumer protection legislation eg training, fit for purpose.</p> <p>Accept names of employees as context for gender discrimination/equal pay if one employee of each gender is mentioned.</p> <p>Level 4 – (10 - 14 marks) Candidate evaluates the extent to which employment protection legislation will impact on <i>TCC</i> now that staff have been employed.</p> <p>Level 3 – (6 - 9 marks) Candidate analyses the likely effect(s) of employment protection legislation on <i>TCC</i> now that staff have been employed.</p> <p>Level 2 – (3 - 5 marks) Candidate explains the likely effect(s) of employment protection legislation on <i>TCC</i>.</p> <p>Level 1 – (1 - 2 marks) Candidate demonstrates knowledge of employment protection legislation with no use of context.</p> <p>Please indicate each time a candidate achieves a particular level as this will help you allocate marks within that level.</p> <p>Context should be annotated every time L2/L4 is awarded with the 'CONT' annotation.</p> <p>Non-contextual answer max Level 1.</p>

Question	Answer	Marks	Guidance
	to learn about the requirements of the legislation (L2), this would cost the business time and money (L3). Given that <i>TCC</i> only has three (CONT) employees it should not prove too difficult for Kelvin to keep matters in order and so employment protection legislation should not prove too big an impact to <i>TCC</i> (L4).		

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