



Examiner's report

LW ENG Corporate and Business Law

Based on exams from January to June 2019

The examining team share their observations from the marking process to highlight strengths and weaknesses in candidates' performance, and to offer constructive advice for future candidates.

General Comments

The examination is divided into two parts: Section A comprises 45 multiple choice questions (MCQs) of either 1 or 2 marks to a total of 70 marks, while Section B contains 5 scenario based analysis questions each worth a total of 6 marks giving the overall total of 100 marks. All questions are compulsory and the exam time period is 2 hours.

As a fully computer-based examination format, all questions are structured so as to be capable of objective marking. The current structure shows a division in the structure between essentially knowledge-based questions and questions requiring, not merely knowledge, but analysis and application in addition.

Comments about Section A performance

In analysing the overall performance it can still be seen that candidates fared better in this section than in the analysis/application section and there is certainly no evidence that any candidates suffered as a result of their performance in Section A as opposed to Section B.

As might be expected, the less complicated 1 mark questions tended to be answered better than the more complex 2 mark questions. However there was a wide range of performance over the whole range of questions in either mark category, so it cannot be concluded that either the 1 mark questions were too easy or the 2 mark questions too difficult, although the best performances were in relation to 1 mark questions and the worst in relation to the 2 mark ones.

As in previous examinations the extension of the field of material to be covered did not prove a major difficulty. However candidates did show some problems in dealing with the more difficult question in areas of the syllabus in which they have traditionally struggled. It would appear that candidates have benefited from the recognition that they will be examined over a wider spectrum of the syllabus.

Some questions proved particularly problematic for the simple reason that they were not the most straightforward and required careful thought in order to come up with the correct answer. Some of these will now be considered. However many of the least well done questions were in the areas that always have proved problematic for candidates, namely English legal system and tort. Examples of these are as follows:

1 Bill has been accused of committing a criminal offence.

Which TWO of the following statements about Bill are correct? (2 marks)

1. His guilt must be proven on the balance of probabilities

2. His guilt may be decided by a jury
3. His case may be heard in the magistrates' court
4. If he is found liable a prison sentence will follow

The answers are 2 and 3.

1 is incorrect because the **standard** in criminal cases is 'beyond reasonable doubt' and 4 is incorrect because prison **may** follow but is not compulsory as other, non-custodial punishments, are available to the court.

2 In the context of statutory interpretation, should each of the following be classified as intrinsic or extrinsic aids? (2 marks)

- | | Intrinsic aid | Extrinsic aid |
|----------------------------|---------------|---------------|
| 1. An Act's long title | | |
| 2. Royal Commission Report | | |
| 3. Hansard | | |
| 4. Dictionary definitions | | |

The answer is that only 1 is an intrinsic aid, 2, 3 and 4 are all extrinsic aids. This appears a simple application of the meaning of the words intrinsic/extrinsic, but that application requires an understanding of the nature of the role of the other elements in the question.

3 In relation to streamlined company registration, by which of the following methods may a person incorporate a company? (1 mark)

- (1) By submitting a hard copy of the relevant information to Companies House
- (2) Online, by electronic means

Choices:

1. 1 only
2. 2 only
3. 1 and 2

This question shows the need to be aware of recent changes in law and legal procedure, the answer being '2 only', which is not really surprising given that the issue is about 'streamlining' registration

4 For each of the following statements regarding streamlined company registration, is the statement true or false? (2 marks)

- | | True | False |
|--|------|-------|
| 1. Company registration will be achieved by electronic means only | | |
| 2. All necessary information regarding corporation tax, VAT and PAYE will be delivered to HMRC | | |

As with question 3 before, this tests up to date knowledge. It should be noted that both elements are true, so random guessing is unlikely to prove successful.

5 Which of the following in relation to companies limited by guarantee is NOT correct? (1 mark)

1. They may not issue shares
2. They may dispense with the suffix 'Ltd' in their names
3. They may distribute profits

The correct answer is 3, but the question is complicated by the fact that it is in the negative form and potential answer 1 also contains a negative, so close reasoning is required to work it out.

5 PQ Ltd has entered formal liquidation proceedings. The company's outstanding debts include 4 months of salary arrears of £800 owing to Shota who is an employee of PQ Ltd.

Which TWO of the following creditors will Shota rank ahead of on payment of PQ Ltd's debts by the liquidator? (2 marks)

1. Twelve months of PAYE arrears owing to HM Revenue & Customs
2. The prescribed part payment to unsecured creditors
3. A bank loan secured on the company's property by a fixed charge
4. The expenses of the liquidation

The correct answer is currently 1 and 2. (Although the government is currently reintroducing the concept Crown privilege in relation to tax debts, so this may change in the future.)

Comments about Section B performance

This element of the examination requires both analysis and application, which skills traditionally candidates have found difficult, and this continues to be the case. The scenarios are short, and questions are subdivided and focussed. What the questions under this structure seek to do is to encourage candidates to demonstrate their understanding of and ability to apply particular legal principles and concepts. Answers cannot be provided without the same underlying knowledge. Candidates should focus on the specific issues raised in the question.

Conclusion

Overall performance has improved under the new structure, but it is pleasing to note how the level of complexity and subtlety in some of the questions stills allows for the very best candidates to distinguish themselves and to be recognised and rewarded.

All aspects of the syllabus can be examined in one exam and therefore it remains imperative that candidates study all topics in the syllabus in order to be successful in the exam.