

PCLL Conversion Examination
January 2016
Examiner's Comments
Business Associations

Overall Comments

Answers to the examination questions were generally very good with the majority of candidates able to identify the issues in the questions and explain and apply the relevant law.

Question 1 was the least popular question and this may be because it was an insolvency question which is an area that is often not taught in depth on undergraduate courses.

The commonest problem with those candidates who did not do so well was, as usual, their failure, after identifying the relevant legal principles in their answers, to apply the law to the issues in the questions and give a conclusion.

Question 1

Question 1 was a question which required an explanation of the winding up procedure. Although this was the least popular question when it was attempted it was generally answered well. The commonest problem with candidates who did not do so well with this question was a failure to address part (2) of the question completely. This part carried 30 marks and required the candidate to identify the possible grounds that the company facing the winding-up application might put forward to oppose the order and then an explanation of their applicability to this case. Some candidates listed grounds but did not discuss their applicability and so lost marks.

Question 2

Question 2 was a question which involved the law of partnerships and the possible liability of partners for the actions of their partners. The better answers gave a general introduction to the law of partnership and general principles of the partnership and then developed the discussion of the rights of those contracting with a partner as against other partners, the principles of agency and the partners' rights inter se. Although many candidates gave reasonable descriptions of the law of partnership those who did not do so well tended to have failed to apply the identified law to the facts.

Question 3

Question 3 was a question which raised the issue of the corporate veil and the circumstances in which the Court will pierce or raise the corporate veil. When those principles had been explained the candidates were required to apply the law to the facts of the question and determine whether liability could be extended to a linked company. Most candidates explained the relevant legal principles but were not so clear in their application of the law to the facts and failed to reach a conclusion.

Question 4

Question 4 involved directors' duties and the fiduciary nature of the role of the company director. Again most candidates explained these principles well and there were some very good answers where candidates then developed their answer by applying the law to the facts of the question. Some candidates lost marks because they failed to identify the remedies that might be pursued.