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## QQI

### BA in Accounting and Finance

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## SUMMER 2024 EXAMINATIONS

*Module Code:* **B7LW100 (M)**  
*Module Description:* **Business & Company Law  
Malaysia Variant**

*Examiner:* **Ms. Fatimah Wahab**  
*Internal Moderator:* **Ms. Siti Aisyah Safren**  
*External Examiners:*

*Date:*

*Time:*

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## INSTRUCTIONS TO CANDIDATES

**Time allowed is THREE hours**

**Answer any FOUR questions**

**All questions EQUAL marks**

**Question 1**

Zalikha had lost her Persian cat Katty. She advertised in the Public Insta that whoever finds Katty and returns her to Zalikha, she would give that person RM7,000 as a reward. Three days later, Katty was found by Danny who returned her to Zalikha. Danny had read the newspaper and seen the advertisement.

Danny seeks your advice as to whether he is entitled to the reward.

**Required:**

- A. Review the law in relation to contract formation, paying particular attention to the element of an offer. Support your answer with relevant cases. (7 marks)
- B. Define what is an invitation to treat? Explain the principle of advertisement and its exception. Support your answer with relevant cases. (7 marks)
- C. When the communication of offer is complete against Danny? Support your answer with relevant statutory provision and cases. (5 marks)
- D. Would your answer differ if Danny knows about the reward the next day after returning Katty to Zalikha? (6 marks)

(Total 25 marks)

**Question 2**

Zayyan, a sixteen-year old, the eldest son of a famous youtuber, has entered into the following contracts:

- (1) He ordered ten suits from *Rizal's Boutique*, at the cost of RM2,000 per piece;
- (2) He ordered and consumed food worth RM1,000 over the period of four weeks from *Selera Restaurant*; and
- (3) He signed a scholarship agreement with the Government of the State of Johor.

*Rizal's Boutique* and *Selera Restaurant* have not been paid. Zayyan also has breached the terms of his scholarship agreement. *Rizal's Boutique*, *Selera Restaurant* and the Government of the state of Johor respectively, have now all contacted you for advice as to whether the above transactions constitute a binding contract.

**Required:**

- A. Review the law in relation to capacity to enter into contracts by minors. This discussion should be supported by relevant statutory provision and case law. (7 marks)
- B. Discuss the exceptions where contracts entered into by minors are valid. This discussion should be supported by relevant statutory provision and case law. (11.5 marks)

- C. Determine whether Zayyan is bound by the contracts with (1) Rizal's Boutique, (2) Selera Restaurant and (3) Government of the State of Johor.

(3 marks)

- D. In the context of a breach of contract, explain the meaning of the term "mitigation of losses" and assess the consequences for the injured party if they fail to mitigate their loss.

(3.5 marks)

(Total 25 marks)

### Question 3

Borhan bought a new BMW through a hire-purchase agreement with *Mewah Finance*. The agreement provided for 84 monthly instalments. After signing the agreement Borhan regularly paid the monthly instalments. Unfortunately, Borhan was retrenched from his office last month. Due to his financial problems, he has now defaulted in his monthly instalments for the last four months. As a result, *Mewah Finance* wants to repossess the car. Borhan has contacted you for advice regarding the procedure for repossession under the Hire-Purchase Act 1967.

#### Required:

- A. Define a 'hire-purchase agreement'.

(4 marks)

- B. Discuss the procedure that must be followed before repossession is permitted in accordance with the Hire-Purchase Act 1967 and state the requirements relating to the manner of taking possession under the Hire-Purchase (Recovery of Possession and Maintenance of Records by Owners) Regulations 1976.

(15 marks)

- C. Discuss the rights of the hirer after repossession, according to the Hire-Purchase Act 1967.

(6 marks)

(Total 25 marks)

### Question 4

Bario commenced employment as a driver with *Sejahtera Coaches* in 2022. Since commencing employment Bario has had an exemplary work record and there have been no disciplinary or performance related issues. Last month there was an incident on Bario's coach, when a group of women who were part of a bachelorette party began fighting with each other. Bario attempted to intervene and break up the fight, but one of the women became quite racially abusive to him (Bario's ethnicity is Nigerian) and spat in his face. In a moment of anger Bario spat back at the passenger. The entire incident was recorded on the coaches CCTV system and following a complaint from this passenger and a subsequent investigation and disciplinary hearing, Bario was dismissed for gross misconduct. He has now contacted you for advice regarding his dismissal.

#### Required:

- A. Define the meaning of "unfair dismissal". State the relevant statutory provision in Malaysia in relation with unfair dismissal.

(5 marks)

- B. Explain the procedure that should be followed by Bario if he wishes to file a claim for unfair dismissal.

(15 marks)

- C. Assess whether you consider that Bario has been unfairly dismissed in the circumstances. Assuming that Bario has been unfairly dismissed, discuss the remedies that may be awarded to him by the Industrial Court in this situation.

(5 marks)

(Total 25 marks)

### Question 5

The *Young Strong Academy* is a private boys' college. Last month there were two separate incidents that were brought to the attention of the college's principal, as follows:

- (1) Mr Khairi was refereeing a rugby match between the college's team and the team from the *Smart College*. Unfortunately, he was hit in the head by a foul ball and knocked unconscious. An ambulance was called, and he was taken to hospital. The hospital kept him in for five days, as he was suffering from a concussion. He also broke his collar bone in the incident and has been absent from work since the incident, on medically certified leave.
- (2) Mr Cheng was teaching a chemistry lesson when, because of a faulty switch on a Bunsen burner, a huge flame erupted from it. Mr Cheng was holding the burner at the time and suffered second degree burns to his hands, first degree burns to his face, and his eyebrows and some of his hair was scorched off. At the time of the incident Mr Cheng was not wearing protective gloves or goggles, both of which had been provided to him by the *Academy*, and both of which it is a requirement to wear while conducting experiments in the college's labs. Notices to this effect are also on the doors of all the *Academy's* labs.

The principal is concerned that Mr Khairi and Mr Cheng may sue the *Academy* in negligence for their injuries. He has contacted you for advice as to any defences that can be raised by the college to counter any potential claim by Mr Khairi and Mr Cheng.

### Required:

- A. Explain the nature of any defence that can be raised by the *Young Strong Academy* in respect of Mr Khairi's injuries, using case law to support your answer. In light of this explanation determine the impact of successfully raising this defence by the *Young Strong Academy* in relation to Mr Khairi's proposed claim.

(9 marks)

- B. Evaluate the nature of any defence that can be raised by the *Young Strong Academy* in respect of Mr Cheng's injuries, using case law to support your answer. In light of this evaluation determine the impact of successfully raising this defence by the *Young Strong Academy* in relation to Mr Cheng's proposed claim.

(10 marks)

- C. Review any **FOUR** classifications of damages that can be awarded by the Court in the case of a successful claim for negligence.

(6 marks)

(Total 25 marks)

### Question 6

Razif and his wife Raziah are the two shareholders and directors of Jaya Sakti Sdn Bhd, a private limited company incorporated under the Companies Act 2016. One day, while on a business trip to Sabah, their private jet crashed into the forest in Sabah killing all on board. Razif and Raziah is survived by their only daughter Raisha aged 19. The creditors are now applying to the court for the company to be wound up claiming that the company has now ceased to exist by the death of both its shareholders and directors.

#### Required:

- A. Discuss the legal effects of incorporation of a company. This discussion should be supported by relevant statutory provisions and case law.  
(19 marks)
  - B. Determine the effect of incorporation of Jaya Sakti Sdn Bhd following the death of both its shareholders and directors (Razif and Raziah). What must be done by the company secretary regarding the above matter? (Following the death of both its shareholders and directors (Razif and Raziah).  
(6 marks)
- (Total 25 marks)

### Question 7

Mahfooz is the Managing Director of *Berkat Barokah Bhd*. Last month one of the company's non-executive directors retired and Mahfooz now wishes that the company's auditor, Badrul, is appointed to this position. Mahfooz knows little about company law and has contacted you for advice regarding certain matters.

#### Required:

- A. Explain the main distinction between the role of an executive and non-executive director.  
(5 marks)
  - B. Examine the minimum number of directors in a private and public company.  
(2 marks)
  - C. Discuss the qualifications to be appointed as a company director, persons who are disqualified from being a director and state whether Badrul is eligible for appointment as a director.  
(10 marks)
  - D. Review the duty imposed upon director to act with due care, skill and diligence in the performance of their duties.  
(8 marks)
- (Total 25 marks)

**END OF EXAMINATION**