

STRICTLY CONFIDENTIAL

THE INSTITUTE OF CHARTERED ACCOUNTANTS IN MALAWI

DECEMBER 2014 EXAMINATIONS

KNOWLEDGE LEVEL

PAPER P2: LEGAL FRAMEWORK

EXAMINER'S REPORT

GENERAL COMMENTS

The December 2014 paper had the lowest number of candidates in 10 years and also the lowest pass rate. The syllabus and the level of questions were not very different from those of the previous years. This low performance may imply that candidates may not have been adequately prepared for the examination.

COMMENTS ON INDIVIDUAL QUESTIONS

QUESTION 1

This question comprised 10 multiple choice questions. Candidates were expected to select one correct answer. Questions were selected from almost all the topics of the syllabus. Out of the 13 candidates 11 got a pass mark and 2 failed to get a pass mark. This good performance may imply that the majority of the candidates found the question reasonably fair.

QUESTION 2

This question was on the Malawi Legal System. It was divided into parts (a) and (b). Part (a) asked the candidates to explain the distinction between overruling and reversing a decision by the court. Part (b) asked the candidates to explain advantages and disadvantages of a precedent. The overall result shows that most candidates had problems with this question. Questions on Judicial precedent have been asked many times in previous examinations. Candidates did not fully prepare for the examination.

QUESTION 3

This question was on “custom” as a source of law. In part (a) candidates were required to comment on custom as a source of law in modern times since it is now seen to be of little importance. Part (b) required the candidates to show or explain how custom can be proved as having been in existence by using the tests of “antiquity” and “continuity”.

This was the most difficult question for all the 13 candidates. This is evidenced by the fact that only one candidate attempted it and scored 0%. Sources of law is a topic that is examined often in law examinations.

QUESTION 4

This question was on law of contract. It was divided into parts (a) and (b). Part (a) required the candidates to explain the meaning of the word “contract” and then identify instances where contracts do not require two or more parties coming to an agreement. Candidates found this question difficult. Part (b) was on consideration in a contract which states that consideration must have some value. “Value” is the main feature of consideration and candidates were expected to discuss it.

QUESTION 5

This question was on Employment Law and was divided into parts (a) and (b). Part (a) required the candidates to identify the acts of an employee at work which cannot constitute good reasons to warrant his dismissal. Part (b) focused mainly on “summary” or “constructive” dismissal. Candidates were asked to explain the grounds for or which would justify constructive dismissal.

QUESTION 6

This question was on the sale of goods and was divided into three parts (a), (b) and (c). Part (a) required the candidates to explain contract for the sale of goods implied by statute relating “sale by sample”. Very few candidates understood the question in full. Part (b) required the candidates to identify the legal issue – this mainly focused on the retention of title clause commonly known as the *Romalpa Clause*. Some candidates were able to identify this and answered it correctly. Part (c) was on sale by a voidable title. Some candidates did not understand it. They confused it with void contract because they could not see the difference between the two.

QUESTION 7

This question was on partnership law and was divided into parts (a), (b), (c) and (d). Part (a) requested the candidates to explain the meaning of partnership. Part (b) was about the legal position of a partnership business. Part (c) was about liability of partners in tort and contract and part (c) was on the liability of a retired partner.

The performance on this question was dismal. Partnership is another area of law which accountants need to be familiar with. Tuition providers should ensure that this topic is fully covered.

QUESTION 8

This question was on Company Law. It was divided into two parts (a) and (b). Part (a) was about the company's share capital (classes). Part (b) required the candidates to explain the securities which may be charged on a company's assets. The candidates were comfortable with the question. Tuition providers are commended for putting a lot of effort on company law. This should be encouraged.

