

**STRICTLY CONFIDENTIAL**

**INSTITUTE OF CHARTERED ACCOUNTANTS IN MALAWI**

**JUNE 2014 EXAMINATIONS**

**FOUNDATION STAGE**

**PAPER P2: LEGAL FRAMEWORK**

**EXAMINER'S REPORT**

**GENERAL COMMENTS**

Thirty candidates sat the paper of whom 24 have passed representing pass rate of 80%. However, despite this good pass rate, the grades obtained by the candidates were not encouraging. The highest scored 68%.

Most candidates found question 4 difficult. Only 10 attempted the question and one candidate got 3 marks out of 20.

**COMMENTS ON INDIVIDUAL QUESTIONS**

**QUESTION 1**

This was a multiple choice question which had 10 items. The question sampled the whole syllabus. The aim was to test candidates on the whole syllabus for the course. All the candidates except two answered the question and the performance was encouraging.

**QUESTION 2**

This question had three parts (a), (b) and (c). Part (a) was on the Malawi legal system particularly focusing on how a Bill is processed in Parliament at different stages. Parts (b) and (c) were also on law formulation but this time focusing on delegated legislation.

**QUESTION 3**

Part (a) was on the Malawi legal system. But unlike question 2, this part focused on terminologies commonly used in the legal field, namely, finding of fact, statement of law and the decision. The question intended to test the candidates on the understanding of these terms and to differentiate one from the other. Candidates appeared not familiar with these legal terms. This is evidenced by the fact that very few answered it.

Part (b) was on sources of law. The question intended to test the candidates on the importance of textbooks and law commission's reports as sources of law and in its application. Few candidates got good marks in this question.

#### **QUESTION 4**

This question had two parts (a) and (b). Part (a) was a simple scenario question while part (b) was factual. In part (a) candidates were required to demonstrate the skills for identifying legal issues on the Law of Contract. Part (b) was on the revocation of an offer. Candidates were expected to demonstrate their understanding of the principles relating to revocation of an offer. Out of 30 candidates only 10 attempted the question. Institutions which provide tuition need to cover the whole syllabus. One got the impression that this topic was not taught.

#### **QUESTION 5**

This question was on the sale of goods and was divided into two parts (a) and (b). Candidates were required to demonstrate their understanding of the legal significance of the retention of title clause as understood in the sale of goods and then to cite a relevant authority to support the answer.

The overall assessment shows that many candidates had a fair understanding of the significance of the term and supported their answer with the correct case law. This was quite encouraging even though not everyone was comfortable with the question.

Part (b) was also on the sale of goods. In (b)(i) the candidates were required to explain the difference between a sale and an agreement to sell. Some candidates had difficulties to distinguish the two terms. In (b)(ii) the candidates failed to show their understanding of the legal significance of each of the two terms.

#### **QUESTION 6**

This question was on employment law and was divided into two parts (a) and (b). Part (a) tested the candidates' understanding of how the minister responsible for Labour and Vocational Training fixes wages for workers and part (b) was about the remedies which an employee who has been unfairly dismissed may be granted by the court.

Candidates were not comfortable with part (a) but answered part (b) very well.

#### **QUESTION 7**

This question was on company law. It was divided into parts (a) and (b). Part (a) required the candidates to explain how a person may become a shareholder in a registered company. Most candidates answered very well this part of the question. They had problems with part (b) where they were required to explain the types of companies which may be formed. The question was about the much broader classification of companies

than the candidates had understood it. Nevertheless, some marks were given for trying to explain the classes of companies in a narrow sense.

### **QUESTION 8**

This question was also on company law. Part (a) was a recall question which required the candidates to explain the meaning of given words relating to the capital of a company. Many students passed this part of the question. In part (b) a principle of law was cited which required the candidates to comment on and to support it with a relevant case law as an authority. Many candidates answered well this part of the question.

