



GCE

Applied Business

Unit **F256**: Business Law

Advanced GCE

Mark Scheme for June 2015

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.




All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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Annotations

	The response given is 'Unclear' to the marker.
BOD	'Benefit of doubt' but credit given.
CONT	To indicate the response is in 'Context' of the relevant case study.
	Response is incorrect, no credit can be given.
L1	Use for Level of response answers to indicate Level 1.
L2	Use for Level of response answers to indicate Level 2.
L3	Use for Level of response answers to indicate Level 3.
L4	Use for Level of response answers to indicate Level 4.
NAQ	The response is not incorrect but has 'Not answered the question'.
OFR	Own figure rule. Use where indicated in the mark scheme.
REP	'Repeat' Response repeats the same marking point.
SEEN	'Noted but no credit given' or to indicate all or part blank answer pages have been seen by the marker.
	Correct point/answer. Credit can be given.
NUT	No use of context/Context cannot be awarded

Subject-specific marking instructions**Blank answer spaces**

To be sure you have not missed any candidate responses you must check every page of the question paper and annotate any blank answer spaces with the following annotation:

SEEN

Additional Objects

You must also check any additional pages (shown as Additional Objects) which the candidate has chosen to use.

Before you begin marking, use the Linking Tool, to 'link' any additional page(s) to the relevant question(s) and mark the response as normal.

All additional pages must be annotated with the 'SEEN' stamp, so it is clear to centres that the additional pages have been viewed by the marker.

Testing of QWC

In this external assessment the assessment of QWC will take place in Question 3f which is a levels of response question and carries 14 marks.

Marks are embedded within this question for assessing the quality of written communication. The following criteria are embedded within the levels of response for Question 3f.

Level 4:

Ability to present relevant material in a well planned and logical sequence. Material clearly structured using appropriate business terminology confidently and accurately. Sentences, consistently relevant, are well structured in a way that directly answers question. There will be few, if any errors of grammar, punctuation and spelling.

[4 marks representing the appropriate level of written communication are embedded in this level of response]

Level 3:

Ability to present relevant material in a planned and logical sequence. Appropriate business terminology used. Sentences for the most part relevant presented in a balanced, logical and coherent manner which addresses the question. There will be occasional errors of grammar, punctuation and spelling.

[3 marks representing the appropriate level of written communication are embedded in this level of response]

Level 2:

Limited ability to organise relevant material. Some appropriate business terminology used. Sentences are not always relevant with material presented in a way that does not always address the question. There may be noticeable errors of grammar, punctuation and spelling.

[2 marks representing the appropriate level of written communication are embedded in this level of response]

Level 1:

Ability to communicate at least one point using some appropriate business terminology. Sentences have limited coherence and structure, often being of doubtful relevance to the main focus of question. Errors of grammar, punctuation and spelling may be noticeable and intrusive.

[1 mark representing the appropriate level of written communication is embedded in this level of response]

Question		Answer	Mark	Guidance
1	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> • faster to set up • will be governed by the Partnership Act • all profits or losses will be shared • no capital withdrawal allowed • if a partner leaves or dies, the partnership must be dissolved • no partner can be paid a salary • sick pay cannot be paid • no interest is payable on capital • nothing to refer back to/disagreements/arguments • not know responsibilities <p>Exemplar responses:</p> <p>E.g. Without a Deed of Partnership the business will be governed by the Partnership Act (1), this would mean that neither partner could be paid a salary (1).</p> <p>E.g. Not creating a Deed of Partnership would save the brothers time when first setting up the business (1), but is likely to mean more disputes in the long term (1).</p>	6	<p>AO1: 3 AO2: 3</p> <p>One mark for each correct identification up to a maximum of three identifications, plus a further one mark for each of three explanations.</p> <p>Accept generic context.</p> <p>Max 2 marks for nothing to refer back to/disagreements/arguments.</p>

Question		Answer	Mark	Guidance
1	(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> • Memorandum of Association • Articles of Association • Certificate of Incorporation • Form 10 • Form 12. <p>Exemplar responses:</p> <p>E.g. Certificate of Incorporation (1) – a document issued by the Registrar of Companies (1) which identifies that the firm has been incorporated and has a separate legal identity from its owners (1).</p> <p>E.g. Form 12 (1) which is a statutory declaration which needs to be signed by a qualified person (1) stating that all the requirements of the registration process have been complied with (1).</p>	6	<p>AO1: 2 AO2: 4</p> <p>One mark for each correct identification up to a maximum of two identifications, plus up to a further two mark for each of two developments.</p> <p>Name of document required to award marks.</p> <p>Award development marks for explanation or description.</p> <p>Accept generic context.</p>

Question		Answer	Mark	Guidance
1	(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> • been unemployed since 16 • do not have much money/cannot afford • unlikely to have any savings • computers/accessories/van expensive • money needed to set up any business • ultimately want to own a shop • likely to need to borrow money • form of ownership affects banks' willingness to lend. <p>Exemplar responses:</p> <p>E.g. Tavas and Shimon are unlikely to have sufficient savings to set up their business (1) because they have been unemployed since leaving school (1).</p> <p>E.g. Computers are not cheap (1). The brothers may initially need to borrow money to buy enough stock for their stall (1).</p>	2	<p>AO1: 1 AO2: 1</p> <p>2 marks for contextual explanation. 1 mark for generic explanation.</p>

Question	Answer	Mark	Guidance
1	<p>(d)</p> <p>Use levels of response criteria.</p> <p>Indicative content:</p> <p>Partnership:</p> <ul style="list-style-type: none"> • unlimited liability • jointly and severally liable • tight control • difficulty obtaining finance from banks • capital sourced from partner's savings • partners keep all profits • Income Tax • minimal start-up requirements • no published accounts • 2-20 partners • governed by Partnership Act. <p>Private Limited Company:</p> <ul style="list-style-type: none"> • limited liability • separate legal entity • weaker control • financial institutions more willing to lend • can sell shares • greater access to capital via shareholders • pay dividends/share profit • Corporation Tax • many legal requirements • must publish accounts • governed by Companies Acts. <p>Exemplar response:</p> <p>E.g. Operating as a private limited company would give Tavas and Shimon limited liability (L1). This may be important to the brothers because they will almost certainly</p>	14	<p>AO1: 2 AO2: 3 AO3: 4 AO4: 5</p> <p>Levels of response</p> <p>Level 4 (10 - 14 marks) Candidate evaluates which form of business ownership Tavas and Shimon should choose for their new business.</p> <p>Level 3 (6 - 9 marks) Candidate analyses the forms of business ownership available to Tavas and Shimon.</p> <p>Level 2 (3 – 5 marks) Candidate applies knowledge and understanding of the forms of business ownership available to Tavas and Shimon.</p> <p>Level 1 (1 – 2 marks) Candidate identifies features of business ownership with no use of context.</p> <p>Please indicate each time a candidate achieves a particular level as this will help you allocate marks within that level.</p> <p>Context should be annotated every time L2/L4 is awarded with the 'CONT' annotation.</p> <p>Non-contextual answer max Level 1.</p> <p>Do not accept arguments relating to sole traders or public limited companies. Simon and Tavas could not trade in either of these forms.</p> <p>Do not award arguments relating to Deed of Partnership as similar issues are covered in a company's Articles of Association.</p>

Question	Answer	Mark	Guidance
	<p>need to borrow money to buy computers and accessories (CONT) for the stall (L2). Having limited liability would mean that a bank is much more likely to offer them finance (L3). On the other hand, a partnership is much easier to set up (L1). Tavas and Shimon have never run a business before (CONT) and may find it much easier to set up their business as a partnership without the added formalities of incorporation (L2). Setting up as a partnership, therefore, is likely to allow the brothers to start trading faster (L3). Overall, because Tavas and Shimon have been unemployed for so long (CONT), and are likely to have little, if any, savings, I would recommend that they form their business as a private limited company in order to maximise their chances of securing the finance which they will need to buy the computer equipment they wish to sell. Setting up a business a few weeks sooner will be of little benefit to the brothers if they cannot buy sufficient stock for the stall (L4).</p>		

Question		Answer	Mark	Guidance
2	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> • some partners have limited liability • at least one partner/the partnership itself must retain unlimited liability. <p>Exemplar responses:</p> <p>E.g. Whilst one partner must retain unlimited liability (1), the others can choose to limit their liability in the business (1).</p> <p>E.g. Some of the partners can have limited liability (1). There must, however, be at least one partner with unlimited liability as the partnership itself does not have limited liability (1).</p>	2	<p>AO1: 2</p> <p>Up to two marks.</p> <p>For full marks the candidate must make clear that the partnership itself/one of the partners retains unlimited liability, even though some of the partners have the privilege of limited liability.</p> <p>Do not award the sacrificing of the day-to-day running of the business as this is not a legal requirement.</p> <p>Do not award references to the partnership having limited liability.</p> <p>Do not accept vague answers.</p> <p>No context required.</p>

Question		Answer	Mark	Guidance
2	(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> • greater control • decision makers • have more say in the day-to-day running. <p>Exemplar responses:</p> <p>E.g. Unlike their uncle, Tavas and Shimon will make the day-to-day decisions within the business (1) and can run the business as they like (1).</p> <p>E.g. Tavas and Shimon will have more control over the business than their uncle (1), because they are involved in the business on a daily basis (1).</p>	2	<p>AO1: 1 AO2: 1</p> <p>One mark for a correct identification, plus a further one mark for an explanation.</p> <p>Accept generic context.</p> <p>Do not award 'more skills' or 'can work in the business'.</p>

Question		Answer	Mark	Guidance
2	(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> • business name similar to major computer retailer • logo similar to major computer retailer • breach of Trade Marks Act. <p>Exemplar response:</p> <p>E.g. The logo which they have designed is similar to that of a major computer retailing chain (1) and may, therefore, break the Trade Marks Act (1).</p> <p>E.g. The name of the business and logo they have designed may be easily mistaken for that of another major computer retailer (1). Copying the unique identity of another business is illegal (1).</p>	2	<p>AO1: 1 AO2: 1</p> <p>One mark for a correct identification, plus a further one mark for an explanation.</p> <p>Do not accept breach of Copyright, Designs and Patents Act.</p>

Question		Answer	Mark	Guidance
2	(d)	<p>Indicative content:</p> <ul style="list-style-type: none"> • register/obtain licence to issue credit • show true cost on advertisements • state APR • provide clear and detailed agreement to client setting out all terms • sign the agreement only when all details on the form are completed • give customer a written copy of agreement • allow 14 day cooling off period for sales made at the stall • customers must be 18 or over. <p>Exemplar response:</p> <p>E.g. <i>TS World</i> must obtain a license (1). This is to protect the public from 'loan sharks' (1).</p> <p>E.g. <i>TS World's</i> customers must be given a copy of the agreement which they have signed (1). This is so that they have it to refer back to in the future (1).</p>	6	<p>AO1: 3 AO2: 3</p> <p>One mark for each correct identification up to a maximum of three identifications, plus a further one mark for each of three explanations.</p>

Question		Answer	Mark	Guidance
2	(e)	<p>Indicative content:</p> <ul style="list-style-type: none"> • satisfactory quality • as described • fit for purpose • matching sample • entitled to repair, replacement or refund. <p>Exemplar responses:</p> <p>E.g. Goods must be as described (1). Any signs <i>TS World</i> displays about the specification of the computers it is selling must be accurate (1).</p> <p>E.g. The computers which <i>TS World</i> sells must work properly (1). If a computer keeps shutting down when in use, then it is not of satisfactory quality (1).</p>	6	<p>AO1: 3 AO2: 3</p> <p>One mark for each correct identification up to a maximum of three identifications, plus a further one mark for each of three explanations.</p> <p>Accept 'merchantable quality' for 'satisfactory quality'.</p> <p>Do not accept 'high quality' or similar as it is incorrect.</p> <p>Do not accept 'reasonable quality' as it is too vague.</p> <p>Accept examples for explanation only.</p>

Question		Answer	Mark	Guidance
2	(f)	<p>Indicative content:</p> <ul style="list-style-type: none"> • agreed in contract/not contained in contract • specific in nature/generic in nature • contained in contract/imposed by legislation • relating to specific contract/universal. <p>Exemplar response:</p> <p>E.g. Express terms are found within a particular contract and apply to that contract only (1), whereas implied terms apply to all contracts (1).</p> <p>E.g. Express terms are agreed by both parties (1), whereas implied terms are imposed by legislation (1).</p>	2	<p>AO1: 1 AO2: 1</p> <p>One mark for a correct identification, plus a further one mark for development.</p> <p>No context required.</p> <p>Do not award 'soft' differences i.e. do not award '...whereas are not'.</p>

Question		Answer	Mark	Guidance
2	(g)	<p>Indicative content:</p> <ul style="list-style-type: none"> • request refund/repair/replacement from <i>TS World</i> • complain to <i>TS World</i> • complain to Town Council • complain to Trading Standards • visit Citizen's Advice • take legal action/sue • settle out of court • contact the media • spread bad name/word-of-mouth. <p>Exemplar responses:</p> <p>E.g. They could write a letter to <i>TS World</i> (1) explaining why they are not satisfied with the treatment which they have received (1).</p> <p>E.g. They could take <i>TS World</i> to court (1) if it has breached any consumer protection legislation (1).</p>	4	<p>AO1: 2 AO2: 2</p> <p>One mark for each correct identification up to a maximum of two identifications, plus a further one mark for each of two explanations.</p> <p>Accept explanations as to reason or consequence.</p>

Question		Answer	Mark	Guidance
3	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> • to formalise the employment • to clarify job role/responsibilities • to refer back to in case of dispute • to minimise future disputes • to use as a basis for legal action • written evidence of terms. <p>Exemplar responses:</p> <p>E.g. Mia could refer to her contract for clarification (1) in order to settle a dispute, for example, over her working hours (1).</p> <p>E.g. Her duties will be set out in writing (1) meaning that she can reasonably refuse to do additional tasks for which she is not paid (1).</p>	2	<p>AO1: 1 AO2: 1</p> <p>One mark for a correct identification, plus a further one mark for an explanation.</p> <p>Do not award benefits to the employer.</p> <p>Accept generic context.</p>

Question		Answer	Mark	Guidance
3	(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> • pay at least the national minimum wage • need to know employee's age to calculate the minimum rate • must grant pay increases in line with changes in NMW • increased costs, decreased profits • legal action if violated • bad publicity/reputation if violated. <p>Exemplar responses:</p> <p>E.g. <i>TS World</i> may be taken to court (1) if it does not pay Mia at least the national minimum wage (1).</p> <p>E.g. <i>TS World</i> must pay Mia at least the national minimum wage (1). This may mean its labour costs are higher than it would like (1).</p>	2	<p>AO1: AO2: 1</p> <p>One mark for a correct identification, plus a further one mark for an explanation.</p> <p>Do not award impacts on employee.</p>

Question		Answer	Mark	Guidance
3	(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> • employees entitled to a break • 20 minutes during a six hour shift • break must be uninterrupted • break must be away from their work • 11 hours off between shifts • limits to length of working week • maximum 48 hours in average week. <p>Exemplar responses:</p> <p>E.g. <i>TS World</i> must not force Mia to work more than 48 hours in an average week (1). The business could face legal action if it did (1).</p> <p>E.g. Breaks should be away from work (1), therefore, the brothers must not demand Mia remain at the market stall during her break (1).</p>	4	<p>AO1: 2 AO2: 2</p> <p>One mark for each correct identification up to a maximum of two identifications, plus a further one mark for each of two explanations.</p>

Question		Answer	Mark	Guidance
3	(d)	<p>Indicative content:</p> <ul style="list-style-type: none"> • supervisory role • does not construct legislation • approves the President of the European Commission • approves the proposed legislation before it becomes law/final say. <p>Exemplar response:</p> <p>E.g. The European Parliament is not involved in the drawing up of any legislation (1), instead it grants its final approval to legislation before it becomes law (1).</p> <p>E.g. The European Parliament has a supervisory role in the creation of EU legislation (1) and it approves the appointment of the President of the Commission (1).</p>	2	<p>AO1: 2</p> <p>Up to two marks.</p> <p>No context required.</p> <p>Do not award 'creates' as this is the question.</p>

Question		Answer	Mark	Guidance
3	(e)	<p>Indicative content:</p> <ul style="list-style-type: none">• visitor to property/premises• unlawful/uninvited• no permission to enter. <p>Exemplar responses:</p> <p>E.g. A trespasser is someone who does not have permission (1) to be on the premises (1).</p> <p>E.g. An unlawful visitor (1) on private property (1).</p>	2	<p>AO1: 2</p> <p>Up to two marks.</p> <p>No context required.</p>

Question	Answer	Mark	Guidance
<p>3 (f*)</p>	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • duty of care to visitors • liability includes buildings and outdoors • Tavas and Shimon right to protect own property • reasonable behaviour – locking gates • van left full of expensive equipment • Darren’s intentions? • Tavas knew dog could be harmful to strangers • Warning sign – clear and visible • Darren put himself in danger by climbing up the gate • dog barked • dog did not hurt Darren • Darren – unlawful visitor/trespasser • trespassers not protected unless deliberate hazards placed to harm – broken glass, dog? • trespassers – liability for personal injury only • Darren’s broken arm/mp3 player. <p>Exemplar response:</p> <p>E.g. Tavas and Shimon are within their legal rights to protect their own property (L1). However, they still owe a duty of care to visitors, and sprinkling dangerous broken glass on the walls (CONT) breaches this duty of care (L2). Even though Darren was an unlawful visitor, the brothers would still be liable for any injury to Darren caused by the broken glass because it was placed there to deliberately cause harm (L3). Leaving a dog in the back yard (CONT) could also be seen as a breach of <i>TS World’s</i> duty of care to visitors (L2). Tavas, however, might argue that the warning sign he attached to the gate showed that the dog was being used only as a deterrent and was not intended</p>	<p>14</p>	<p>AO1: 2 AO2: 3 AO3: 4 AO4: 5</p> <p>QWC is assessed in this question.</p> <p>Levels of response</p> <p>Level 4 (10 - 14 marks) Candidate evaluates <i>TS World’s</i> current position with regard to occupiers’ liability legislation.</p> <p>Level 3 (6 - 9 marks) Candidate analyses <i>TS World’s</i> current position with regard to occupiers’ liability legislation.</p> <p>Level 2 (3 – 5 marks) Candidate applies knowledge and understanding of occupiers’ liability legislation to <i>TS World’s</i> current position.</p> <p>Level 1 (1 – 2 marks) Candidate identifies factor(s) relevant to occupiers’ liability with no use of context.</p> <p>Please indicate each time a candidate achieves a particular level as this will help you allocate marks within that level.</p> <p>Context should be annotated every time L2/L4 is awarded with the ‘CONT’ annotation.</p> <p>Non-contextual answer max Level 1.</p>

Question	Answer	Mark	Guidance
	to cause actual harm (L3) . Overall, it is likely that the courts would rule that since neither the dog (CONT) nor the glass caused actual injury to Darren, <i>TS World</i> could not be held responsible for the injuries he sustained to himself or for the damage caused to his mp3 player (L4) .		

Question		Answer	Mark	Guidance
4	(a)	Indicative content: <ul style="list-style-type: none"> • provide a safe working environment • safe storage • safe transportation • regular safety inspections • keeping an accident book • safety signs • satisfactory emergency procedures • provision of first aid kits • trained first aiders • provision of training. 	2	AO1: 2 One mark for each correct identification up to a maximum of two identifications. Accept generic context. Must apply to <i>TS World</i> , therefore do not accept 'provide fire exits', 'guards on machinery' or 'provision of protective clothing'.

Question		Answer	Mark	Guidance
4	(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> • misconduct/gross misconduct • incapacity • statutory restriction • redundancy • retirement • other substantial reasons. <p>Exemplar responses:</p> <p>E.g. Redundancy is an acceptable reason to dismiss an employee (1). This is where the job role done by the employee is no longer required (1).</p> <p>E.g. An employee can be immediately dismissed for gross misconduct (1); for example, committing a criminal offence such as theft (1).</p>	6	<p>AO1: 3 AO2: 3</p> <p>One mark for each correct identification up to a maximum of three identifications, plus a further one mark for each of three explanations.</p> <p>Legal term required to award marks.</p> <p>Accept examples for explanation marks only.</p> <p>No context required.</p>

Question	Answer	Mark	Guidance
4 (c)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • no problems for first 15 months of Mia’s employment • Mia – reliable and punctual • Mia - good at her job, sales doubled due to Mia? • Shimon’s lateness, reason? • Shimon impatient/rushing? – appointment at bank • Shimon’s job to carry the stock • Mia – sales assistant - job role? • request reasonable? within job description? • Mia never been required to carry stock before • no training - negligence? • should Mia have carried the equipment to the stall? • cause of incident/ whose fault? • bullying? Mia initially refused but Shimon insisted • contributory negligence? – high heeled boots • accident or deliberate? • weather conditions - icy • Mia’s twisted ankle and ripped trousers • broken laptops – expensive for <i>TS World</i> to replace • Shimon’s attitude – sexist comments? Unforgiving? • One year qualifying period (not needed in discrimination cases). <p>Exemplar response:</p> <p>E.g. An employee who has worked for a business for over a year is protected by legislation from unfair dismissal (L1). Shimon appears to have sacked Mia not only because she cost <i>TS World</i> a lot of money when she fell and broke the laptops (CONT) but because she was a woman (L2). Such treatment would be seen as discrimination on sexual grounds and make the dismissal</p>	14	<p>AO1: 2 AO2: 3 AO3: 4 AO4: 5</p> <p>Levels of response</p> <p>Level 4 (10 - 14 marks) Candidate evaluates whether Mia’s dismissal was fair.</p> <p>Level 3 (6 - 9 marks) Candidate analyses factors relating to Mia’s dismissal.</p> <p>Level 2 (3 – 5 marks) Candidate applies knowledge and understanding of dismissal legislation to Mia’s dismissal.</p> <p>Level 1 (1 – 2 marks) Candidate identifies feature(s) of dismissal legislation with no use of context.</p> <p>Please indicate each time a candidate achieves a particular level as this will help you allocate marks within that level.</p> <p>Context should be annotated every time L2 is awarded with the ‘CONT’ annotation.</p> <p>Non-contextual answer max Level 1.</p> <p>Do not award arguments relating to wrongful dismissal e.g. notice periods and warnings. The question refers to unfair dismissal.</p>

Question	Answer	Mark	Guidance
	<p>unfair (L3). Shimon might argue that his request to help him carry the computer equipment (CONT) was reasonable (L2). However, given that Mia was employed as a sales assistant (CONT) and had never been asked to carry the stock before it is likely that the courts would rule Shimon's request as unreasonable, and, therefore, the sacking unfair. Not only should Mia have kept her job but <i>TS World</i> should also be paying for the damage to her trousers (L4).</p>		

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