



GCE

Applied Business

Unit **F256**: Business Law

Advanced GCE

Mark Scheme for June 2014

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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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These are the annotations, (including abbreviations), including those used in scoris, which are used when marking

Annotation	Meaning of annotation
	Blank Page – this annotation must be used on all blank pages within an answer booklet (structured or unstructured) and on each page of an additional object where there is no candidate response.
	The response given is 'Unclear' to the marker.
	'Benefit of doubt' but credit given.
	To indicate the response is in 'Context' of the relevant case study.
	Response is incorrect, no credit can be given.
	Use for Level of response answers to indicate Level 1.
	Use for Level of response answers to indicate Level 2.
	Use for Level of response answers to indicate Level 3.
	Use for Level of response answers to indicate Level 4.
	The response is not incorrect but has 'Not answered the question'.
	Own figure rule. Use where indicated in the mark scheme.
	'Repeat' response repeats the same marking point.
	'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.
	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 3b 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 3b.

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"> • offer – a statement without misrepresentation • acceptance – unconditional consent to all terms • consideration – some mutual exchange of value • intention – both parties intend to be legally bound • capacity – ability/authority to make a contract • legality – within legal parameters. <p>Exemplar response:</p> <p>Eg Consideration (1) both <i>Jak Ltd</i> and Josef Kotka must offer something in exchange (1).</p> <p>Eg The contract must not break UK legislation, for example, by trading illegal drugs (1). This is called 'legality' (1).</p>	8	<p>AO1: 4 AO2: 4</p> <p>One mark for each correct identification up to a maximum of four identifications, plus a further one mark for each of four developments.</p> <p>Allow 'signing the contract' only if given as an indication of acceptance.</p> <p>Do not accept 'agreement' for 'acceptance'.</p>

Question		Answer	Mark	Guidance
1	(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> • as described • matching sample • no false advertising. <p>Exemplar response:</p> <p>Eg <i>Jak Ltd</i> must make sure that any claims which it makes on its advertising literature are true (1). For example, it must not claim that the coffee comes from Denmark if it does not (1).</p> <p>Eg The ingredients for each type of Danish pastry must match those listed on the label (1) because the law states that the product must be as described (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 references to selling at the advertised price as this is an invitation to treat.</p> <p>Context required for full marks.</p> <p>Accept examples as explanation.</p>

Question			Answer	Mark	Guidance
1	(c)		<p>Indicative content:</p> <ul style="list-style-type: none"> • work to be done with reasonable skill • work to be done with reasonable care • work to be done within a reasonable period of time • proper standards of workmanship • satisfactory quality of supplies. <p>Exemplar response:</p> <p>Eg Customers should not be kept waiting at the counter for the service for too long (1) because the law states that they must be served within a reasonable length of time (1).</p> <p>Eg <i>Jak Ltd's</i> sales assistants must work with reasonable care (1). They must check that the mug is clean before filling it with coffee (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>Context required.</p>

Question			Answer	Mark	Guidance
1	(d)		<p>Indicative content:</p> <ul style="list-style-type: none"> • units must be metric • weights/measures should be stated at point of sale • weights/measures should be accurate • contents should match labelling • weights/measures not misleading. <p>Exemplar response:</p> <p>Eg Goods must be sold in metric sizes (1), therefore, the size of a small mug of coffee must be indicated in millilitres rather than fluid ounces (1).</p> <p>Eg The measures served must be accurate (1). An extra large mug of coffee must contain at least as much liquid as indicated at the point of sale (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 generic context.</p> <p>Accept examples as explanation.</p>

Question		Answer	Mark	Guidance
1	(e)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • harm/injury • damaged property • unsafe/defective products • strict liability – no need to prove fault • producer/supplier of product • reasonable use of product • customer/consumer not at fault • applies to third parties. <p>Exemplar response:</p> <p>Eg The Consumer Protect Act makes a manufacturer liable for any injury caused by its product (L1) so long as it is being used in a manner which could be reasonably expected for that product (L1).</p> <p>Eg <i>Jak Ltd</i> is responsible for any harm its mugs of coffee cause (L2) provided they are drunk in a sensible manner (L2). Debbie was drinking normally from the mug when it cracked and scalded her, making <i>Jak Ltd</i> liable (L2). Debbie does not need to prove that <i>Jak Ltd</i> has done something wrong to cause the mug to break because its liability as producer is strict (L2).</p>	6	<p>AO1: 2 AO2: 4</p> <p>Level 2 (3 – 6 marks) Candidate explains how the Consumer Protection Act would make <i>Jak Ltd</i> liable for Debbie's injuries.</p> <p>Level 1 (1 – 2 marks) Candidate identifies issue(s) related to the Consumer Protection Act with no use of context.</p> <p>No matter how detailed a candidate's knowledge of the Consumer Protection Act is, if it is not applied to the injuries caused to Debbie it must be awarded Level 1 and a maximum of two marks.</p>

Question			Answer	Mark	Guidance
2	(a)		<p>Indicative content:</p> <ul style="list-style-type: none">• The Insolvency Act. <p>Exemplar response:</p> <p>Eg Insolvency Act (1).</p> <p>Eg Insolvency (1).</p>	1	<p>AO1: 1</p> <p>For one mark.</p> <p>Do not award incorrect names for the Act even if they have 'insolvency' in their title, eg do not award 'The Business Insolvency Act'.</p>

Question			Answer	Mark	Guidance
2	(b)		<p>Indicative content:</p> <ul style="list-style-type: none"> • administration attempts to keep the company trading • liquidation makes no attempt to save the company • different purpose • different expected outcomes • sold as going concern. <p>Exemplar response:</p> <p>Eg Administration attempts to save the company (1), whereas liquidation winds up the company for the maximum benefit of creditors (1).</p> <p>Eg A company might be placed in administration rather than liquidation because it is believed that a buyer can be found (1) and that the company can be saved (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 implicit understanding of the difference between administration and liquidation.</p>

Question		Answer	Mark	Guidance
2	(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> • shareholder meeting • administration orders received • administrator appointed • company's affairs managed for the benefit of creditors • notice in The London Gazette/local newspaper • Companies House notified • suspension of any winding up orders currently in place • business documents changed to include name of administrator • statement of company affairs completed • statement of rescue proposals produced • creditors meeting held if necessary • necessary remedial measures taken in an attempt to save the firm. <p>Exemplar response:</p> <p>Eg An administrator would be appointed to run the company (1). The insolvency practitioner would use their skills to keep the company trading (1).</p> <p>Eg A notice stating that the company has been placed into administration must be printed in the Gazette (1) in order to alert all creditors and shareholders to the company's situation (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 developments.</p> <p>Response must be steps involved in administration, rather than liquidation or receivership.</p> <p>Do not accept liquidator or receiver. Accept administrator or insolvency practitioner.</p> <p>Do not award references to insolvency/liquidation, ie selling assets or paying back creditors in order of priority.</p> <p>Must be steps.</p> <p>Do not award vague answers.</p>

Question			Answer	Mark	Guidance
2	(d)		Indicative content: <ul style="list-style-type: none">• within 8 weeks of the employee starting work. Exemplar response: Eg 8 weeks (1) . Eg Within 56 days (1) .	1	AO1: 1 For one mark. Accept 2 months. Accept 56 - 62 days.

Question		Answer	Mark	Guidance
2	(e)	<p>Indicative content:</p> <ul style="list-style-type: none"> • approach employer/formal complaint • contact trade union • contact ACAS • go to an employment tribunal/court • consult solicitor • get help from legally trained advisors • use media power. <p>Exemplar response:</p> <p>Eg They could contact their trade union (1) in order to get legal advice (1).</p> <p>Eg An employee could send a letter to their employer outlining their grievances (1) so that the employer is fully aware of the employee's viewpoint (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>

Question		Answer	Mark	Guidance
2	(f)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • fair/unfair dismissal • discrimination – The Equality Act • redundancy – notice period, compensation • wrongful dismissal – notice requirements • legal rights after dismissal • Minimum Wage Act – minimum wage – age related • working time regulations – working hours, breaks • contracts of employment • employment conditions • common law duties • lack of training - new store managers • relocation – West Midlands staff. <p>Exemplar response:</p> <p>A company is allowed to make employees redundant if the job role done by the employee is no longer required (L1). <i>Jak Ltd</i> needs to streamline its workforce in order to ensure the 12 newly acquired coffee shops are profitable (CONT). In such a situation, making surplus staff redundant does not breach employment legislation (L2). However, choosing to make redundant those who did not have Danish-like physical features is discriminatory and in contravention of The Equality Act (L3). The directors might argue that it was pure luck that the best employees happened to have Danish-like physical features (CONT), but the fact that they required the young employees to dye their hair blonde as a condition of employment shows their argument to be untrue. Choosing which workers to make redundant in a discriminatory manner puts <i>Jak Ltd</i> in serious breach of employment protection legislation (L4).</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 the extent to which <i>Jak Ltd</i> might be in breach of employment protection legislation.</p> <p>Level 3 (6 - 9 marks) Candidate analyses <i>Jak Ltd</i>'s current position with regard to employment protection legislation.</p> <p>Level 2 (3 – 5 marks) Candidate applies knowledge and understanding of employment protection legislation to <i>Jak Ltd</i>'s current position.</p> <p>Level 1 (1 – 2 marks) Candidate identifies employment protection issue(s) 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>

Question			Answer	Mark	Guidance
3	(a)	(i)	<p>Indicative content:</p> <ul style="list-style-type: none"> • created by judges • during court cases when no legislation to cover the case exists • exercise judicial precedent • decisions guided by fairness and equity • binding in lower courts for future similar cases. <p>Exemplar response:</p> <p>Eg Common law is created by judges (1) who make decisions guided by fairness and equity when no existing legislation applies (1).</p> <p>Eg Legal principles are laid down by judges (1) who exercise judicial precedent to create common law principles (1).</p>	2	<p>AO1: 2</p> <p>Up to two marks.</p> <p>Responses must refer to how common law is created, rather than what common law is or how it is used.</p> <p>No context required.</p>

Question			Answer	Mark	Guidance
3	(a)	(ii)	<p>Indicative content:</p> <ul style="list-style-type: none"> • pay on time • provide safe working conditions • provide necessary training • not undermine trust and confidence • not to be negligent. <p>Exemplar response:</p> <p>Eg Must provide a safe working environment (1).</p> <p>Eg The directors must ensure that the employees are paid on time (1).</p>	2	<p>AO1: 2</p> <p>One mark for each correct identification up to a maximum of two identifications.</p> <p>Duties must be under common law. Do not award statutory or contractual duties.</p> <p>Accept generic context.</p> <p>Do not award 'paid their wages'.</p>

Question			Answer	Mark	Guidance
3	(a)	(iii)	<p>Indicative content:</p> <ul style="list-style-type: none"> • carry out work with reasonable skill • obey reasonable orders • act in good faith • work safely • take reasonable care • confidentiality. <p>Exemplar response:</p> <p>Eg Lee must not break his employer's confidence (1).</p> <p>Eg The sales assistants should obey all reasonable instructions from their store managers (1).</p>	2	<p>AO1: 2</p> <p>One mark for each correct identification up to a maximum of two identifications.</p> <p>Duties must be under common law. Do not award statutory or contractual duties.</p> <p>Accept generic context.</p>

Question		Answer	Mark	Guidance
3	(b*)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • Health and Safety at Work Act – spider, broken floor tile, leaking machine, puddle, warning signs • common law duties of employees • contributory negligence • vicarious liability • occupiers' liability • Lee/Razia – employees' behaviour reasonable? • Josef Kotka – lawful visitor • cause of incident – contributing/mitigating factors • injuries to Razia and Josef Kotka • Razia – three days off work • Josef Kotka – sole trader – threat to livelihood. <p>Exemplar response:</p> <p>Eg The law holds employers and employees responsible for safety in the workplace (L1). The directors could argue that it was Lee and Razia's foolish behaviour with the spider (CONT) which caused the injuries to Josef Kotka (L2). On the other hand, Lee and Razia could argue that it was the company's fault because it was the broken floor tile which actually caused Razia to slip. <i>Jak Ltd</i> has failed to maintain the safety of the kitchen in the Leicester shop, thus breaching the Health and Safety at Work Act (L3). No matter which of the two viewpoints the court favours <i>Jak Ltd</i> will be liable for the serious injuries to Josef Kotka - either because the company failed to provide a safe place to work for its employees or because it is held vicariously liable for the foolish behaviour of its staff when they found a spider (CONT) in the sink (L4).</p>	14	<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>Jak Ltd's</i> legal position with regard to the incident at the Leicester coffee shop.</p> <p>Level 3 (6 - 9 marks) Candidate analyses <i>Jak Ltd's</i> legal position with regard to the incident at the Leicester coffee shop.</p> <p>Level 2 (3 – 5 marks) Candidate applies knowledge and understanding of health and safety legislation to the incident at the Leicester coffee shop.</p> <p>Level 1 (1 – 2 marks) Candidate identifies health and safety issue(s) 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>

Question		Answer	Mark	Guidance
4	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> • to prevent copying • to register ownership • to allow time for testing/development • to sell rights • to license product • to obtain royalties • to allow legal action if copied • marketing advantage. <p>Exemplar response:</p> <p>Eg The patent will stop any other business from being able to copy <i>Jak Ltd's</i> calorie burning coffee recipe (1), giving the company time to get it fully tested (1).</p> <p>Eg By patenting the recipe the directors ensure that the company, rather than Eva, owns the rights to the product (1) and can benefit financially if it goes into production (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>Must be benefit of having a patent/coffee patent. Answers that purely relate to the benefit of the new coffee recipe should not be awarded.</p>

Question		Answer	Mark	Guidance
4	(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> • large amounts of paperwork • time consuming application process • financial cost • opportunity cost • patents can be pending for several years. <p>Exemplar response:</p> <p>Eg Filling in the application documents for a patent is a time consuming process (1). This would mean that the directors are likely to have less time to deal with the range of employee grievances which still exist at <i>Jak Ltd</i> (1).</p> <p>Eg The paperwork needed to secure a patent is complex (1). <i>Jak Ltd</i> may experience long delays in obtaining the patent if it is unable to provide all of the documentation required (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>Must be about the disadvantages of having a patent and not the coffee recipe.</p> <p>Must be impacts.</p>

Question			Answer	Mark	Guidance
4	(c)		<p>Indicative content:</p> <ul style="list-style-type: none"> • keep official company records • keep register of shareholders and directors • file company accounts • correspond with Companies House • arrange board and shareholder meetings • take minutes of board and shareholder meetings • deal with legal issues - tax, insurance, leases • maintain the registered office • ensure documentation meets legal requirements. <p>Exemplar response:</p> <p>Eg Send annual return to Companies House (1).</p> <p>Eg Take minutes at the AGM (1).</p>	2	<p>AO1: 2</p> <p>One mark for each correct identification up to a maximum of two identifications.</p> <p>No context required.</p> <p>Do not award vague answers.</p>

Question		Answer	Mark	Guidance
4	(d)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> • sell shares on stock exchange • greater access to capital • increased media interest • public scrutiny • loss of family control • divorce between ownership and control • share price volatility • more legal requirements • public accounts • £50,000 minimum authorised share capital • company secretary a legal requirement • mandatory AGMs • re-registration documentation and procedures • time • financial cost • opportunity cost • risk of takeover • premature decision – results of product testing? <p>Exemplar response:</p> <p>Eg Public limited companies are likely to be able to raise more finance than private limited companies (L1). By floating on the stock exchange <i>Jak</i> may be able to raise enough extra finance to fund the testing and production of the calorie burning coffee (CONT) (L2). This would allow the company to market the calorie burning coffee, potentially earning massive profits (L3). However, given that Eva has only tested the recipe on a few people (CONT), and that the results of product testing may not be positive, the decision to change the status of <i>Jak</i> to a</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 the directors' decision to change the legal status of <i>Jak</i> to a public limited company</p> <p>Level 3 (6 - 9 marks) Candidate analyses the advantage(s)/disadvantage(s) to <i>Jak</i> of it being a private/public limited company.</p> <p>Level 2 (3 – 5 marks) Candidate applies knowledge and understanding of the advantage(s)/disadvantage(s) to <i>Jak</i> of it being a private/public limited company.</p> <p>Level 1 (1 – 2 marks) Candidate identifies advantage(s)/disadvantage(s) of being a private/ public limited company 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
			public limited company seems a little premature. Re-registering would take up a great deal of time, time which may be better spent dealing with employee grievances until the results of the product testing are known (L4) .		

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