

**ASSOCIATION OF ACCOUNTANCY BODIES IN WEST AFRICA
ACCOUNTING TECHNICIAN SCHEME, WEST AFRICA
PART I EXAMINATIONS - SEPTEMBER 2021**

**BUSINESS LAW
(GHANA VERSION)**

Time Allowed: 3 Hours

**SECTION A: PART 1 MULTIPLE-CHOICE QUESTIONS (30 MARKS)
ATTEMPT ALL QUESTIONS**

Write ONLY the alphabet (A, B, C, D or E) that corresponds to the correct option in each of the following questions/statements

1. In the absence of the president, who among the following takes over the office of the president whenever the President is out of office or country?
 - A. The Vice President
 - B. The Speaker
 - C. The Chief Justice
 - D. The Electoral Commissioner
 - E. Chief of Staff

2. Which of the following statement is true? A treaty is a
 - A. Contract with a foreign state
 - B. Contract between parties
 - C. Friendly agreement
 - D. Compelling agreement
 - E. Force majeure

3. The head of the legislature is
 - A. The Majority Leader
 - B. The Chief Whip
 - C. The Speaker
 - D. The President
 - E. The leader of the opposition

4. Which of the following does **NOT** form part of the hierarchy of the court?
 - A. Supreme Court / Court of Appeal / District Court.
 - B. Supreme Court/ High Court/ Juvenile Court.
 - C. Supreme Court / Electoral Commission /National Chieftaincy Tribunal.
 - D. Supreme Court / Court Appeal /Circuit Court.

- E. Supreme Court/Court of Appeal/Regional Tribunals
5. Which of the following is **TRUE** about the office of the Attorney-General?
- A. The Attorney – General shall be responsible for the initiation and conduct of all criminal offences
 - B. The Attorney – General shall be responsible for the initiation and conduct of Private action
 - C. The Attorney – General shall be responsible for the initiation and conduct of family matters connecting the state
 - D. The Attorney – General shall be responsible for the initiation and conduct of human actions in Ghana
 - E. The Attorney-General shall be responsible for the initiation and conduct of affairs of the state
6. Which of the following is **NOT** a remedy in civil actions?
- A. Injunctions
 - B. Specific performance
 - C. Damages
 - D. Imprisonment
 - E. Rescission
7. A claim of negligence is
- A. Civil action
 - B. Both civil and criminal actions
 - C. Partly civil
 - D. Criminal only
 - E. Partly criminal
8. Which of the under listed is the result of a counter-offer? A counter – offer
- A. Binds the parties on the terms of the contract
 - B. Is a destruction of the original offer and replaces it with a new offer
 - C. Creates a binding contract on the terms of the counter offer
 - D. Pleads on a term of contract
 - E. Shakes the original offer
9. What does the postal rule state?
- A. Acceptance runs as soon as the letter is posted
 - B. Acceptance occurs only when the offeror receives the letter
 - C. Acceptance occurs only when the offeror opens the letter as received

- D. Acceptance does not occur if the letter is lost in the post
 - E. Acceptance is the face of the original offer
10. Which of the following is an effective way to terminate an offer?
- A. Rejection by the offeree
 - B. Failure of a condition precedent
 - C. Revoking the offer following acceptance
 - D. Lapse of reasonable time
 - E. A, C and D above
11. Which of the following is **NOT** an invitation to treat?
- A. Advertisement
 - B. Display of goods
 - C. Tender notices
 - D. Exhibition of goods for sale
 - E. Goods sold to a particular person
12. An agency relationship which is retrospective is known as agency by
- A. Ratification
 - B. Estoppel
 - C. Necessity
 - D. Commerce
 - E. Influence
13. What is the resulting effect of misrepresentation?
- A. Illegal
 - B. Voidable
 - C. Void
 - D. Unenforceable
 - E. Mis-application
14. A term may be implied into a contract by
- A. The Courts
 - B. Statute
 - C. Trade Custom
 - D. Innominate Term
 - E. A, B and C above
15. A lease that is usually not cancellable by the lessee prior to the expiration date is

- A. Financial lease
 - B. A net lease
 - C. Hire-Purchase Lease
 - D. Sale of Goods lease
 - E. Operating lease
16. A lease that refers to short term lease of asset and is often cancellable is
- A. Operating lease
 - B. Hire-Purchase lease
 - C. Sale of Goods lease
 - D. Finance lease
 - E. A net lease
17. Which of the following is **NOT** a type of goods in the Sale of Goods Acts, 1962 (Act 137)?
- A. Specific goods
 - B. Ascertained goods
 - C. Unascertained goods
 - D. Unspecific goods
 - E. A and B above
18. Which of the following is **NOT** true about the definition of goods under the Sale of Goods Act, 1962 (Act 137)?
- A. Growing crops
 - B. Plants and other things attached to land which are agreed to be severed before sale
 - C. Plants attached to land which are agreed to be severed before sale
 - D. Minerals under the surface of the land agreed to be severed before sale
 - E. Landed property of every description
19. A hirer in a hire-purchase agreement has the right to
- A. Use goods
 - B. Enjoy quiet possession of the goods
 - C. Know the price of the goods
 - D. Repossess the goods
 - E. A, B, C above
20. Protected goods are goods
- A. Let under a hire-purchase agreement

- B. Let under contract of sale of goods
 - C. Negotiated on in a normal contract agreement
 - D. Let through finance and lease
 - E. Negotiated under both hire-purchase and normal contract agreement
21. Which of the following is **NOT** a duty of an employer?
- A. Modify, extend or cease operations
 - B. Protect the interest of workers
 - C. Furnish the worker with a copy of worker's contract of employment
 - D. Develop the human resources by the way of training and retraining of workers
 - E. Keep open the channels of communication with the workers
22. Which of the following statement is **NOT** a fair termination of a worker's employment?
- A. Proven misconduct
 - B. Due to legal restrictions
 - C. The worker is incompetent
 - D. The worker has joined trade union
 - E. Redundancy
23. Agency relationship terminates on
- A. The death of principal or agent
 - B. The bankruptcy of principal or agent
 - C. The sanity of principal or agent
 - D. The deliberate attempt of the principal
 - E. A, B and C. above
24. The principal's duties include to
- A. Pay the agent commission
 - B. Indemnify the agent for acts lawfully done
 - C. Obey instructions of the agent
 - D. Act personally
 - E. A and B above
25. The winding up of a company may be by
- A. Official liquidation or by private liquidation

- B. Formal liquidation or by private liquidation
 - C. Company liquidation or by private liquidation
 - D. Liquidation
 - E. Usual liquidation
26. All shareholders are invited in which of the following meeting?
- A. Annual general meeting
 - B. General meeting
 - C. Board meeting
 - D. Class group meeting
 - E. Board general meeting
27. Which of the following reflect a debenture holder?
- A. Is a member of the company
 - B. Represents the company at key meetings
 - C. Is not entitled to attend and vote at a general meeting
 - D. Is entitled to attend and vote at a general meeting
 - E. A, C above
28. The top administrative organ of a company is
- A. The Secretary
 - B. Board of Directors
 - C. Advisory panel
 - D. The Auditor
 - E. The finance team
29. Which of the following is **NOT** true about a private company
- A. Restricts the right to transfer its shares
 - B. Limits the total number of the members and debenture holders to fifty (50)
 - C. Prohibits the company from making an invitation to the public to acquire shares/debentures of the company
 - D. Limits the total number of the members and debenture holders to fifty (50) upon special application
 - E. Does not have a perpetual succession
30. Which of the following relate to trust?
- A. Revocable Trust

- B. Irrevocable Trust
- C. Testamentary Trust
- D. Trustee Trust
- E. A, B,C, above

SECTION A: PART II SHORT-ANSWER QUESTIONS (20 MARKS)

ATTEMPT ALL QUESTIONS

Write the correct answer that best completes each of the following questions/statements

1. Equity follows the.....
2. Equity looks on that as done which ought
3. The law that governs the relationship between private persons or bodies and define their rights is.....
4. The law that make certain conducts as offences punishable by the State is known as.....
5.of a contract is where an unforeseen or unexpected event occurs to make performance of a contract impossible, illegal or radically different from the performance that was contemplated.
6. Anyor.....persons may form an incorporated company.
7. Acontract is that which has no legal effect.
8. A.....is an agreement between two or more persons recognized and enforceable under the law.
9.is the circumstance under which the principal later confirms and adopts a contract when an agent has no authority.
10. In a contract of sale of goods, a.....is where an unpaid seller retains the goods until payment or tender of the price made.

11. In a hire purchase agreement, it is an implied term that the goods are of.....at the time of delivery.
12. In the contract of employment, termination is..... if the termination is based on the workers incompetence.
13. The amount released to an insured when he/she is paying premium
14. The business letter head of a firm must always have.....
15. A person appointed to act as a deputy in a company for another named director is.....
16. Ais a person appointed who takes possession of and protect the property, receive the rents and profits and discharge the outgoings among others of a company.
17. Half secret trusts occurs when a will discloses the existence of a trust but not the name of the.....
18. Inlease, the owner/lessor buys the asset and rents to the user.
19. Inlease, the user/lessee will not be able to buy the asset during the period of the lease.
20. An act done honestly whether it is done honestly or not is deemed to be done in

SECTION B: ATTEMPT ANY FOUR QUESTIONS

(50 MARKS)

QUESTION 1

- a. There are several maxims of equity.

Required:

Briefly explain the equitable maxim, 'He who comes into equity must come with clean hands'. (3 Marks)

- b. What is the effect of 'provisional' in the law of contract? (2½ Marks)

- c. Maku made a call by telephone on 2nd February to Okla to offer to sell spare parts of a grinding machine. Okla received the offer on 8th February. Maku wrote a letter on 10th February posting it on the same day to revoke the offer. On 11th February Okla by e-mail wrote to accept the offer and confirmed it the same day by telephone. On 15th February Maku's letter revoking the offer reached Okla by which time the spare parts had been sold to Portey.

Required:

Advise the Parties. (4 Marks)

- d. State the **THREE** principles of insurance. (3 Marks)

(Total 12½ Marks)

QUESTION 2

- a. i. A party to a contract does so on factual statement.

Required:

List the **THREE** kinds of misrepresentation (3 Marks)

- ii. What is the general effect of misrepresentation? (2½ Marks)

- b. i. There are many ways to terminate an agency in the agency relationship.

Required:

List **FOUR** ways in which an agency relationship can be terminated. (4 Marks)

- ii. Ama enters into agency relationship with Ban. Ban was given actual authority to sell car tyres. Ban sold the car tyres. Ama paid the appropriate commission. The following day, Ban presented himself purporting to be an agent. Ama did not pay attention to him. Ban was so hurt and furious.

Required:

Advise Ban

(3 Marks)

(Total 12½ Marks)

QUESTION 3

- a. i. The doctrine of Caveat Emptor plays part in the contract of sale of goods.

Required:

Briefly state the Caveat Emptor doctrine.

(3 Marks)

- ii. A trustee as a corporate entity or a natural person, has rights and duties.

Required

State **THREE** rights of a trustee.

(3 Marks)

- b. A company has proposed to wind up by way of a private liquidation.

Required:

State the procedure that the directors should follow.

(3 Marks)

- c. What is the significance of the principle of contribution in insurance?

(3½ Marks)

(Total 12½ Marks)

QUESTION 4

- a. The Laws of Ghana include common law

Required:

What comprises the common law as provided under the Constitution of the Republic of Ghana, 1992?

(2½ Marks)

- b. Koo contracted to sell 20 boxes of face masks to Akos valued at GH¢1,400. The order for the cost was received by e-mail headed 'Akos' Dealers in Face Mask, 16 Forest Avenue. Koo had not dealt with Akos in the past. Koo have not received payment. His investigation revealed Akos does not exist. The face mask had actually been ordered by Katatoma a fraudster.

Required:

Advise Koo

(4 Marks)

- c. i. Define 'Directors' as provided under the companies Act, 2019 (Act 992) (2 Marks)
- ii. Aku has for some months held herself out as the director of Akopas Company Limited. Aku has not in fact been appointed Director of Akopas Company Limited. The officers and staff of the company have for some months carried out his instructions. The company flouted the statutory rules required of an incorporated company. Aku now raises the fact of not being duly appointed.

Required:

Should Aku bear any liabilities?

(4 Marks)

(Total 12½ Marks)

QUESTION 5

- a. How is the legal trust relationship created? (3½ Marks)
- b. The liquidator appointed for private liquidation is vested with powers of the Board of Directors of the company to be liquidated.

Required:

State **FIVE** of the powers of the liquidator.

(5 Marks)

- c. A scrap metal dealer, identified an abandoned rusty vehicle which he wished to buy. His enquiry led him to an old man in the community who was known to be the owner of the abandoned vehicle. He notified the old man by telephone his offer to buy it and issued a cheque in the name of the old man. The old man however wanted to see him (metal dealer) personally. On the arranged day, the scrap dealer was to present the cheque to the old man. The old man then was surprised to identify him

as the very owner of the vehicle he had been looking for the past 15 years. The vehicle was left in his custody by the father of the scrap dealer now dead.

Required:

What is the status of the contract?

(4 Marks)

(Total 12½ Marks)

QUESTION 6

- a) Operating lease and finance lease are part of the accounting system.

Required:

Briefly explain operating lease.

(3 Marks)

- b) Onia, an educated man in his sixties has a plot of land that he intended to convey to his “beloved” son. In June his surveyor in the company of his “bad” son called on him. The surveyor represented to him that there was a mistake in the original sketch of the drawing of the land and therefore, the original document he signed. The new document was to amend the original mistakes made. He signed the new document without reading or ask any questions on it. It turned out that the new document was to convey the plot of land to his “bad” son. Onia now says the document he signed was not his deed-non est factum.

Required:

State the rule of deed-non est factum and advise Onia on his plea.

(3 Marks)

- c) Gladys, Kate and Dora were partners of a firm. Before they were admitted to the firm, the firm owed its creditors. In the course of time, Gladys and Kate retired from the firm. At the time of retiring, the firm had debts and obligations to discharge to its creditors. The firm was reconstituted with Shash and Shito admitted.

Required:

What debts and obligations are available for Gladys and Kate to discharge (if any) when they were first admitted to the firm and at the time they retired?

(3 Marks)

- d) Conditions and warranties are essentials in insurance contract.

Required:

Briefly explain the difference between a warranty and a condition in insurance contract.

(3½ Marks)

(Total 12½ Marks)

SOLUTIONS TO QUESTIONS

MULTIPLE CHOICE QUESTIONS

1. A
2. A
3. C
4. C
5. A
6. D
7. A
8. B
9. A
10. D
11. D
12. A
13. B
14. E
15. A
16. A
17. E
18. E
19. E
20. A
21. A
22. D
23. E
24. E
25. A
26. A
27. C
28. B
29. E
30. E

SHORT ANSWER QUESTIONS

1. Law
2. To be done
3. Civil law
4. Criminal law
5. Frustration
6. One/more
7. Void
8. Contract
9. Ratification
10. Seller's lien
11. Mercantile quality
12. Fair
13. Surrender value
14. Accurately mentioned/Stated
15. Substitute director
16. A receiver
17. Beneficiary
18. Finance
19. Operating
20. Good faith

ESSAY QUESTIONS

QUESTION 1

a)

The maxim looks to the past conduct of a person who brings on action. A bad conduct of the suitor will not be a bar to an equitable relief. In order to constitute a bar the conduct of the suitor must have an immediate and necessary relation to the relief for anyone guilty of improper conduct in the matter at hand. Its purpose is to protect the integrity of the court. It does not disapprove only illegal acts but will deny relief for bad conduct that as a matter of public policy ought to be discouraged. The bad conduct that is condemned by the maxim must be part of the transaction that is the subject of the lawsuit. (3 Marks)

b)

Something provisional is temporary in the sense that it is only valid for a while. Provisional as a clause in contract means that the parties intend the document to be an agreement binding from the outset though subsequently to be replaced by a more formal contract. (2½ Marks)

c)

The rule is that revocation of an offer is ineffective unless it has been communicated to the Offeree. Thus in the present case Maku's letter revoking the offer should reach Okla to effect communication. The letter revoking the offer reached Okla on 15th February the effective date for revoking the offer. (3 Marks)

d) i) In the insurance world there are six basic principles that must be met, namely
Insurable interest,
Utmost good faith,
Proximate cause,
Indemnity,
Subrogation, and
Contribution (3 Marks)

(TOTAL: 12. ½ Marks)

QUESTION 2

- a) i.
- Fraudulent misrepresentation
 - Negligent
 - Innocent

(3 Marks)

ii)

The general effect of misrepresentation that induces a party to enter into a contract is that it renders the contract voidable at the option of the party misled. The person misled may be entitled to claim damages as well as if the misrepresentation is fraudulent or negligent but not if it is innocent.

(2 ½ Marks)

- b) i)
- Death, Insanity, Bankruptcy of either principal or agency, mutual agreement, passing of time where agency was created for a specific time, where the agent has carried out his obligations, by express agreement and lapse of time.

(4 Marks)

ii)

If parties agree to set a time period for the agency relationship, the agency relationship terminates when the time period passes. Thus agency relation between Ama and Ban terminates when the tyres were sold and Ban was paid his commission.

(3 Marks)

(TOTAL: 12½ Marks)

QUESTION 3

- a) i) The doctrine Caveat Emptor is integral part of sale of goods. The doctrine means let the buyer beware. The doctrine often places on buyers the burden to reasonably examine property before purchase and take responsibility for its condition. The doctrine makes the buyer more conscious of his choices in what goods he buys. However, the buyer can shift the responsibility to the seller if the following conditions are fulfilled:
- If the buyer shares with the seller his purpose for the purchase
 - The buyer relies on the knowledge and/or technical expertise of the seller
 - And the seller sells such goods (3 Marks)

- ii) The trustee is entitled to the instrument of trust, and all other documents of title relating to the trust property.

The trustee has the right for reimbursement

The right to seek advice from the court.

The right to contribution claim.

The right to employ agent.

The right to settlement of accounts.

(3 Marks)

b)

- i. The company resolves by special resolution that it shall be wound up by way of private liquidation
- ii. Prior to the date of the resolution on affidavit declaring to the effect that the directors of the company have made a full enquiry into the affairs of the company, and that in their opinion the company will be able to pay its debt and liabilities in full within a period not exceeding 12 months from the commencement of the winding up that may be specified in the affidavit
- iii. The affidavit is made within five weeks before the date of the passing of the resolution for winding up and is delivered to the Registrar for registration on or before the date. The affidavit should embody a statement of the company assets and liabilities.

(3 Marks)

- c) The principle ensures that the insured also contribute a certain portion of the claim along with the insurer. It ensures that all the insured who are part of the pool contribute to the claim made by participant of the pool in the proportion of the premium paid by them. It ensures that the premium as contributed by the insured in equal installments over the year.

(3½Marks)

(TOTAL: 12½ Marks)

QUESTION 4

- a) The common law shall comprise the rules of law generally known as the common law, the rules generally known as the doctrines of equity and rules of customary law including those determined by the Superior Court of Judicature. (2½ Marks)
- b) There is the presumption that is seller (Koo intended) to deal with the person with whom he actually dealt with that the identity of the buyer did not matter where the identity was crucial the contract will be held void for mistake. In the present scenario it would be seen that Koo Manu wanted to deal with Katatoma, As such the contract was only voidable and if Koo is to regain in the nose mask they must ovoid the contract before Katatoma sells the nose mask to an innocent third party. (4 Marks)
- c)i) 'Directors' means those persons by whatever name called who are appointed to direct and administer the business of the company. Such person may be called for example governors, council, senate, regents, trustee, executive's collective, and management committee. (2 Marks)
- ii) Section 170(2) of the Companies Act, 2019 Act 992 provides that a person not being a duly appointed director of a company
- a. Who holds out as a director or knowingly allows to be held out as a director of that company or

- b. On where directors or instruction the duly appointed directors are accustomed to act is subject to the same duties and liabilities as if that person were a duly appointed director of the company. In the present case Aku cannot run away from liability and obligations.”

(4 Marks)

(TOTAL: 12½ Marks)

QUESTION 5

- A trust is created when property is transferred in trust to a person for the benefit of another or even for the benefit of the person who transferred the property. The person who entrusts the property is known as the settlor/grantor. The person to whom property is entrusted is the trustee. He has the legal title of the property. The party for whose benefit the property is entrusted is called the beneficiary, who has equitable title in the property. The entrusted property is known as the corpus or trust property. (3½ Marks)

b)

- He shall bring or defend any action or legal proceedings in the name and on behalf of the company.
- He shall carry on the business of the company so far as will be necessary for the beneficial winding up.
- He may appoint a legal practitioner to assist him in the performance of his duties.
- He shall pay the classes of creditors in following order:
Debts owed to the State,
Debenture secured by fixed charge,
Floating charge
Unsecured creditors
- Make compromise or arrangements with creditors of the company (those who cannot be paid in full).
- Sell the real and personal property of the company by public auction or private contract.
- Raise money on the security of the company's assets.
- Do such acts and things as may be necessary for winding up the company's affairs and distributing those assets.

(5 Marks)

- c) The rule has been that if the intended owner cannot transfer ownership belongs to the intended buyer then there is nothing to sell or convey. The contract will then be a nullity-as res sua; buying that which belongs to you. The cheque must therefore, be returned to the scrap dealer.

(4 Marks)

(TOTAL: 12½ Marks)

QUESTION 6

a)

- Operating lease is a type of rental agreement. The user (hirer)(lessee) will not be able to buy the asset during the period of lease.
- The user has access to the asset for a set time period in return for regular monthly payment.
- The lessee is able to use the asset for full term of the agreement, paying rental sums each month.
- Risk remains with the lessor (leasing company) with the plan that the asset will be returned to the lessor at the end of the term.
- At the end of the agreement, the asset is expected to maintain a residual value which is forecast at the beginning of the lease.
- The asset maintenance may be built into the payment.
- Ownership remains with the lessor and at the end of the agreement the asset can be returned or a new lease taken out.

(3 Marks)

- b) The rule is that the plea of non-est factum will avail the blind, and the illiterate who cannot read and write an educated person. . The same applies to persons who permanently or temporarily through no fault of their own are unable to have real understanding of the effect of a document without explanation. In the present case, Onia is an educated person. He understood what he was signing. He however did not read the content of the document put before him. The plea will not avail him.

(3 Marks)

- c) Section 15 (1) (2) of the Incorporated Private Partnerships Act, 1962 Act152 provide that;

15 (1) A person who is admitted as a partner into an existing firm is not liable to the creditors of the firm for anything done before that person became a partner.

On the strength of this provision Gladys and Kate owed no obligations to the firm to discharge.

15 (2) A partner who retires from a firm shall not cease to be liable for the debts or obligations of the firm incurred before the retirement.

On the strength of this provision, Gladys and Kate shall not cease to be liable to the debts and obligations of the firm at the time of their retirement.

(3 Marks)

- d) Generally. A condition is an essential part of a contract, a breach of which entitles the party not at breach to sue for damages and repudiates the contract. On the other hand a warranty is not a vital part of the contract and breach of which entitles the innocent party only to sue for damages. The meaning of these terms, namely conditions and warranties are reversed in insurance law.

There is a thin line difference between warranties and conditions in insurance contract. It should be said that all warranties are conditions but not all conditions are warranties in insurance contract.

Warranties play significant part in insurance law than conditions. A warranty is a term of insurance contract that if the insured has breached, the insurer is no longer held to be liable as of the date of the breach. On discovering the breach the insurer may either elect to treat the contract as repudiated or he may affirm it. The effect of the breach of warranty is to render the contract voidable. So a breach of a warranty would invalidate the insurance claim. Warranty may be classified into implied warranties, namely warranties as to present, as to the future among others.

In the context of insurance contract, a condition can be defined as contractual obligation on the part of the insured to act in a particular manner or omit from doing something. The two types of conditions are express and implied. A condition may be treated as a warranty, however not the vice versa, that is the party entitled to avoid the contract by a breach of a condition may not avoid the contract but may elect to be satisfied with the lesser remedy of damage. The insurer is discharged from his liability if the conditions are not strictly complied whether it is material with the risk or not.

(3½ Marks)

(TOTAL: 12½ Marks)