

Applied Business Law

Module outline and aims

The module provides a general framework of the legal principles underpinning business law, as appropriate to the role of the Chartered Secretary.

The aim of this module is to facilitate an understanding of the basic principles and how they should be applied within a commercial framework. For example, you will be required to apply the principles of contract law to specific contracts such as the contract of employment and consumer contracts.

Chartered Secretaries are required to have a sound knowledge and understanding of the legal framework and how it applies in a business context and the overall aim of this module is to facilitate and develop your understanding of business law in the context of the business environment.

Learning outcomes

On successful completion of this module, you will be able to:

- Demonstrate a good understanding of the areas of law which affect businesses.
- Identify the key issues and theoretical debates surrounding the functions and objectives of business law.
- Identify the basic principles of business law as appropriate to the role of the Chartered Secretary.
- Critically analyse the law in the context of the business environment.
- Apply the law to factual situations which may arise in a business setting.
- Offer reasoned solutions and advice to practical problems.

Syllabus content

Commercial contracts – weighting 30%

Candidates will be required to display a sound understanding of what a contract is and the nature, role and purpose of contracts. The syllabus includes:

Concept of freedom of contract/sanctity of contract

Formation of contracts

- Offer: invitation to treat, unilateral contracts
- Acceptance: postal rule, acceptance of unilateral contracts
- Counter offer
- Auctions
- Tenders
- Certainty of agreement
- Offer and acceptance when dealing with machines
- Termination of offers
- Battle of the forms

Intention to be legally bound:

- Agreements made in a business context
- Agreements made in a social context

Requirement of consideration:

- Types of consideration
- Sufficiency of consideration
- Performance of an existing duty
- Part payment of a debt
- Promissory estoppel

Privity of contract

Formalities:

- Contracts required to be in writing
- Contracts required to be evidenced in writing
- Contracts which must be in the form of a deed

Capacity to contract:

- Minors
- Mental disorder and drunkenness
- Corporations

Contents of contracts:

- Distinction between terms and representations
- Express terms
- Conditions, warranties and innominate terms
- Exclusion clauses
- Implied terms – by statute, by the courts, by custom
- Sale of Goods Legislations
- Consumer Protection Legislations

Vitiating factors:

- Mistake, common and unilateral, mistake as to the nature of the document signed, mistake as to identity
- Misrepresentation – definition, innocent, fraudulent, negligent, remedies

Duress and undue influence

Illegal contracts

Discharge of contract – by performance, breach, frustration

Remedies for breach of contract – damages, equitable remedies

Law of tort – weighting 20%

Candidates will demonstrate their understanding of the nature of a tort and, in particular, the torts of:

Negligence:

- Duty of care
- Standard of care
- Causation
- Foreseeability
- Breach
- Damage
- Economic loss
- Negligent statements
- Thin Skull Rule
- Defences

Occupiers' liability:

- Lawful visitors
- Non lawful visitors
- Occupiers' Liability Legislations

Product liability – Consumer Protection Legislations

Nuisance:

- Private nuisance
- Public nuisance
- Remedies
- Defences

Trespass – to land, to the person, to goods

Defamation

Vicarious liability

Commercial law – weighting 20%

This part of the syllabus introduces the concept of an agent and how such an agent can enter into contracts on behalf of another person.

Agency – appointment:

- Express
- Implied
- Necessity
- Ratification

Relationship between principal and agent – duties

Authority of the agent:

- Express
- Implied
- Actual
- Apparent

Termination of agency

Sale of Goods – protecting the consumer:

- Sale of Goods Legislations
- Consumer Protection Legislations
- Passing of ownership and risk
- Duties of buyer and seller
- Remedies of buyer and seller

Consumer credit:

- Consumer Protection Legislations
- Lease to Buy (Installment Sale)

Privacy Legislations

Competition law:

- Competition Legislations

Insurance contracts:

- Types
- Principles

Financial services regulation:

- Financial Consumer Agency Act
- Federal Bank Act
- Office of the Superintendent of Financial Institutions
- Equity Financing
- Securities Legislations

Employment law – weighting 30%

This section of the syllabus covers how the contract of employment is formed and the provisions of such contracts, along with the rights and duties of employers and employees.

Employees and independent contractors:

- Contract of service and contract for service
- The position of 'agency' workers

The contract of employment:

- Formation of the contract
- Written particulars
- Part-time and fixed-term workers
- Variation to contract

Common law and statutory duties of employer/employee:

- Express terms
- Implied terms
- Employer's duty to persons other than employees
- Vicarious liability
- Duty of disclosure

Wages:

- Unauthorised deductions
- Employment/Labour Standards Legislations
- Guarantee payments
- Medical suspension
- Insolvency
- Pay statements

Maternity rights:

- Maternity leave
- Right to return to work
- Suspension on maternity grounds
- Ante-natal care (parental leave; time off for dependants; adoption leave)

Discrimination:

- Discrimination against part time workers, fixed term workers, persons with criminal records
- Pay Equity Legislations
- Employment Equity Legislations
- Canadian Human Rights Legislations
- Charter of Rights and Freedoms Provisions
- Human Rights Commission

Termination of contracts of employment

Wrongful dismissal:

- Who can claim?
- What is a dismissal?
- When is a dismissal unfair?
- Procedure, remedies

Constructive dismissal

Layoff:

- Who can claim?
- Payments

Health and safety at work:

- Common law health and safety
- Occupational Health & Safety Legislations
- Workers Compensation Legislations

Dispute resolution:

- ADR, Alternative Dispute Resolution
- Employment Tribunals
- Court System

Whistle blowing – Labour/Employment Standards Legislations
The Criminal Code

Trade Unions