

THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

A Committee of the Council of ICPAU

ATC(U) EXAMINATIONS

LEVEL II

PRINCIPLES OF LAW II– PAPER 6

THURSDAY, 13 DECEMBER 2001

INSTRUCTIONS TO CANDIDATES

1. Time allowed: **3 hours.**
2. Attempt **all** questions in Section A, any **two** questions from Section B and any **four** questions from Section C.
3. Section A consists of **twenty** compulsory multiple choice questions each carrying 1 mark.
4. Section B has **three** questions and only two are to be attempted. Each question carries 20 marks.
5. Section C has **five** questions and only **four** questions are to be attempted. Each question carries 10 marks.
6. Please, read further instructions on the answer booklet before attempting any question.

SECTION A

Question 1

- (i) What is a tort?
 - (a) A wrong.
 - (b) A civil wrong.
 - (c) A civil liability.
 - (d) Criminal liability.
- (ii) In tort, trespassers are;
 - (a) Prosecuted for damages.
 - (b) Prosecuted by the state.
 - (c) Sued for damages.
 - (d) Sued by the state.
- (iii) The basis for liability in defamation is:
 - (a) Slanderous statements.
 - (b) Abusive words.
 - (c) Publication to a third party.
 - (d) Attacking one's reputation.
- (iv) Which of these forms of publications has absolute privilege?
 - (a) Statements made in parliament.
 - (b) Statements made by politicians.
 - (c) Statements made in newspapers and journals.
 - (d) Statements made in textbooks.
- (v) What is a cheque?
 - (a) An order by a banker to pay on demand
 - (b) A promissory note payable on demand.
 - (c) A bill of exchange payable at a future date.
 - (d) A bill of exchange drawn on a specified banker and payable on demand.

(vi) A bill of exchange may be discharged in any of the following ways except:

- (a) Payment in due course.
- (b) Cancellation by the holder.
- (c) Conditional endorsement thereon.
- (d) Material alteration without consent of all parties.

(vii) Safety of an employer at work is ensured by the:

- (a) National safety Council.
- (b) Employer
- (c) Labour Ministry.
- (d) Trade Union.

(viii) An employee's duties include:

- (a) To obey all orders by the employer.
- (b) Not to compete with the employer.
- (c) To hire services of experts.
- (d) To act in good faith.

(ix) Share capital refers to:

- (a) The total net assets of a company.
- (b) The nominal capital of a company.
- (c) The authorized capital of a company.
- (d) The issued share capital of a company.

(x) Who appoints the first directors of a company?

- (a) The company members at general meeting.
- (b) The Subscribers to the Memorandum of Association.
- (c) The Registrar of Companies.
- (d) The Company members at Annual General Meeting.

(xi) A director of a Company may be removed from office by:

- (a) An ordinary resolution.
- (b) A special resolution.
- (c) An extra-ordinary resolution.
- (d) By simple majority.

- (xii) What is a debenture?
- (a) A loan to a company.
 - (b) A company share certificate.
 - (c) A promissory note to a company.
 - (d) A document acknowledging a company's indebtedness.
- (xiii) Who of these can be a member of the company?
- (a) A deceased shareholder.
 - (b) An infant.
 - (c) Another company.
 - (d) A bankrupt shareholder.
- (xiv) Dividends are:
- (a) Paid out of a company's capital.
 - (b) Automatically paid when the company makes profits.
 - (c) Payable before a company's other debts.
 - (d) A share of the company's declared profits relative to members share holding.
- (xv) Which of the following statements is false?
- (a) The directors may fill a casual vacancy in the office of the auditor.
 - (b) The first auditors of a company must be appointed by the directors.
 - (c) The surviving auditor may act where a casual vacancy arises.
 - (d) The registrar may appoint a person to fill a vacancy if no auditors are appointed at an annual general meeting.
- (xvi) A statutory meeting is held within a period of.....from the date at which a company is entitled to commence business.
- (a) At least one month.
 - (b) At least four months.
 - (c) Not less than one month nor more than three months.
 - (d) Not less than one month nor more than four months.
- (xvii) The doctrine of Ostensible authority is also known as:
- a) Preclusion authority.
 - b) Waiver authority.
 - c) Apparent authority.
 - d) Actual authority.

(xviii) You can acquire shares of your late mother in Tweride Co. Ltd by:

- a) Asking for them;
- b) Agreement;
- c) Transfer;
- d) Transmission.

(xix) The law expects it to file audited accounts:

- a) Frontwards Universal Unlimited Company.
- b) Frontwards Universal Limited Partnership.
- c) Frontwards Universal Private Limited Company.
- d) Frontwards Universal Public Limited Company.

(xx) Except one are advantages gained by filing audited accounts:

- a) It Increases transparency.
- b) It increases directors accountability to shareholders.
- c) It increases minority creditor protection.
- d) It increases tax base.

SECTION B

Question 2

Elliweger is a proprietor of a school in the city suburbs. He contracted M/s Texas Constructors to renovate the school auditorium which was in a sorry state of disrepair. While work was in progress, Emily, the school Administrator, was hit and seriously injured by falling debris as she passed near the auditorium. She never noticed that M/s Texas Constructors had embarked on the renovation. There was also no form of warning notice to passersby, of (possible) falling debris or other material around that place. Meanwhile, Mark, the mason engaged by M/S Texas Constructors slid on a slippery surface within the auditorium and broke his left leg. He is now hospitalised and his leg may be amputated. It was discovered that on the fateful day he was not wearing the protective boots provided by M/s Texas Constructors.

Both Elliweger and M/s Texas constructors are reluctant to compensate Emily and Mark for injuries suffered.

Required:

Advise all parties on their rights and obligations.

(20 marks)

Question 3

Jackie an airline hostess sold her car to one Osman whom she had never met before. She was paid by cheque. Originally this cheque was drawn by one holder (Laden) in favour of Osman but he endorsed it to Jackie. When Jackie presented the cheque for payment, it was dishonoured and she was referred to the drawer. It appears Osman made some alterations in the value of the cheque, without Laden's knowledge before endorsing it to Jackie. Jackie is desperate because she cannot trace Osman. She has approached you for appropriate advice.

Required:

Advise her on how she can get redress.

(20 marks)

Question 4

In strict legal terms,

“An Auditor is not bound to be a detective or... to approach his work with suspicion that there is something wrong. He is a watch-dog but not a blood hound”.

Per LOPES L.J; in RE: KINGSTON COTTON MILL CO (No.2) (1886) 2 279.

In light of the above statement, discuss the duties of an Auditor as legally spelt out.

(20 marks)

SECTION C

Question 5

Discuss the ways in which a contract of employment may be terminated.

(10 marks)

Question 6

What are the duties of the directors of a company?

(10 marks)

Question 7

Yasollo is a Director in Dombolo Company Ltd. The members of Dombolo Company Ltd have threatened to remove her from the Directorship before the expiration of her eight-year term. Yasollo is a friend of your Mother and knows that you study Principles of Law II and approaches you.

Required:

Advise on how that removal can be opposed and how the members' wish may be achieved?

(10 marks)

Question 8

Oryem has 99 % shareholding in Oryemax Ltd and is its sole director. Oryemax Ltd owed 1 Billion Shillings to Mpaka Ltd, for which Oryem was sued. When Oryemax Ltd failed to repay, Oryem's vehicle was attached to settle the debt. Oryem produced a photocopy of its logbook bearing his names. Mpamu, a director of Mpaka Ltd maintains that the veil of Oryemax Ltd be lifted, saying that this was naked fraud and threatens to get Oryemax Ltd wind up for insolvency.

Required:

Advise Oryem.

(10 marks)

Question 9

Discuss how and who may initiate Inspections and Investigations and the circumstances under which they may not be granted.

(10 marks)