

# THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

*A Committee of the Council of ICPAU*

## ATC(U) EXAMINATIONS

### LEVEL TWO

#### PRINCIPLES OF LAW II– PAPER 6

THURSDAY, 12 DECEMBER 2002

#### 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** has **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 the difference between a contract of service and a contract for service?
  - (a) In a contract of service, there is master /servant relationship.
  - (b) In a contract of service, the employer does not supervise on a day today basis the manner in which the work is done.
  - (c) In a contract of service, the employee is the owner of the tools and equipment.
  - (d) The risk of loss and chance of profits falls on the employee.
- (ii) Which of the following remedies may Court decline to grant when there is breach of contract of employment?
  - (a) Damages.
  - (b) Injunction.
  - (c) Re-instatement.
  - (d) None of these.
- (iii) The auditor of the company is appointed by;
  - (a) Registrar of companies.
  - (b) Shareholders.
  - (c) Creditors of the company.
  - (d) The Auditor General.
- (iv) What kind of remedy would you apply for if the registrar declined to register a company without a just cause?
  - (a) Prohibition.
  - (b) Certiorari.
  - (c) Injunction.
  - (d) Mandamus.
- (v) In a voluntary winding up, the liquidator is appointed by:
  - (a) Registrar
  - (b) Court.
  - (c) Either the Registrar or Court.
  - (d) Members.

- (vi) How may a company change its name?
- (a) By an ordinary resolution of the members and approval of the Registrar.
  - (b) By extra ordinary resolution and approval of the Registrar.
  - (c) Single majority resolution and approval of the Registrar.
  - (d) Special resolution with approval of Registrar.
- (vii) What is the minimum period with in which annual returns should be filed with the Registrar after the Annual General Meeting?
- (a) 60 days.
  - (b) 42days.
  - (c) 90 days.
  - (d) 30 days.
- (viii) What is a floating charge?
- (a) Specific charge that is ascertainable.
  - (b) Equitable charge that is unascertained.
  - (c) Specific charge that remains circulating with assets until it crystallises.
  - (d) Both (b) and (c) above.
- (ix) Transmission of shares occurs:
- (a) When the members voluntarily dispose off the shares.
  - (b) When a member defaults.
  - (c) When a member is declared bankrupt.
  - (d) Any member commits a fraud.
- (x) When may members' voluntary winding up take place?
- (a) When creditors meet and pass a special resolution.
  - (b) When the registrar intervenes.
  - (c) When there is a deadlock in management.
  - (d) When a declaration of solvency is made following a special resolution.
- (xi) Which of the following institutions has power to handle winding up proceedings?
- (a) High Court.
  - (b) Registry of Companies.
  - (c) Industrial Court.
  - (d) Magistrate Court.

- (xii) Which of the following statements has absolute privilege?
- (a) Reports of public meetings.
  - (b) Reports of judicial proceedings.
  - (c) Public statements by members of parliament.
  - (d) Statements of army officers.
- (xiii) What is an inchoate cheque?
- (a) Post-dated cheque.
  - (b) Stale cheque.
  - (c) Signed cheque without amounts.
  - (d) Cheques that are not negotiable.
- (xiv) Which of the following is not a form of trespass to person?
- (a) Assault.
  - (b) Battery.
  - (c) False confinement.
  - (d) Detinue.
- (xv) Publication in a permanent form of a false statement that tends to lower the reputation of a person can be called;
- (a) Slander.
  - (b) Libel.
  - (c) Innuendo.
  - (d) Defamation.
- (xvi) What is the minimum statutory notice required of an employer to terminate the services of an employee who has worked for four years.
- (a) One month's notice.
  - (b) Two months notice.
  - (c) Fifteen days notice.
  - (d) Three months notice.
- (xvii) What do you understand by the principle of *res ipsa loquitur*?
- (a) Burden of proof.
  - (b) Breach of duty of care.
  - (c) Assumption of negligence.
  - (d) Contributory negligence.
- (xviii) Vicarious liability will render an employer liable for torts which;
- (a) Any one commits in the normal course of business.
  - (b) The employee commits on a frolic of his own.
  - (c) An employee commits in his normal course of business.
  - (d) An employee commits accidentally.

- (xix) Which of the following events can lead to winding up under the just and equitable clause?
- (a) Loss of the company substratum.
  - (b) Creditors petition.
  - (c) Registrars intervention.
  - (d) Carrying on an illegal activity.
- (x) What do you understand by remoteness of damages?
- (a) Damages payable after long duration.
  - (b) Damages within reasonable contemplation of parties.
  - (c) Damages that naturally and directly arise from the events.
  - (d) Damages that are reasonably envisaged by the parties on breach of duty.

## SECTION B

### Question 2

Kafupi a director of Kampala Manufactures (U) Ltd which obtained its registration certificate on the 5 August 2002 obtained a loan of Shs 150 million on behalf of the company from Mango Bank Ltd on 5 June 2002 to promote its business of making home made bombs.

Kafupi has been acting informally as a director for the last one-year and signing company documents as a director and company secretary. In order to disguise his wealth, Kafupi intends to incorporate another company where he will be a majority shareholder, his wife and son.

Because of her special liking for the President, Kafupi's wife proposed Yoweri Kaguta (U) Ltd. Because of Kafupi's political affiliation, he suggested Democratic Party (U) Ltd. Their son being a fan of Bin Laden has proposed Alqueda (U) Ltd. To mobilise the necessary capital, Kafupi sold his Mercedes Benz to the company at Shs 15 million, which could have fetched Shs 4 million on the open market. The other directors complained about the transaction, and Kafupi purportedly dismissed them. The period given to pay the loan has expired and the Bank wants to sale the property of the company to recover its money.

### Required:

Raise the issues involved and advise all the parties on the appropriate course of action.

**(20 marks)**

### Question 3

“Acts or omissions, which any moral code would censure, cannot in the practical world be treated so to give right to every person injured by them to demand relief. In this way, rules of law arise, which limit the range of complainants and the extent of their remedy”. Lord Atkinson in *Dohoghue vs. Stevenson*.

- (a) In light of the above statement, discuss the elements of a tort of negligence and the defences available.
- (b) Discuss the liability of auditors for their negligent misstatements.

**(20 marks)**

### Question 4

Black is a majority shareholder in Black Acre (U) Ltd and is also its Managing Director. Njagala, his wife, is a minority shareholder. Black Acre (U) Ltd owes Investment Bank (U) Ltd Shs 100 million, which it had borrowed to boost mineral exports from Uganda, which failed due to United Nations sanctions on export of minerals from Uganda.

Black’s mansion has been attached by the auctioneers on the instructions of the bank and intends to sale it to recover its money. It has meanwhile transpired that the company was set up to grow flowers for export to the wide market in the European Union, and that there was no company resolution to borrow. Black Acre (U) Ltd is to wind up business.

#### Required:

- (a) Raise the issues involved and advise the parties on the appropriate remedies.

**(10 marks)**

- (b) Assuming you are an auditor in the CPA firm appointed to wind up the company, advise on how to prove the debt and priority of distributing the company assets.

**(10 marks)**

**(Total 20 marks)**

## SECTION C

### Question 5

“The role of auditors has progressively moved from the traditional role of checking vouchers and making arithmetical computations to a more professional role that suits modern business environment.”

#### Required:

Discuss this statement in light of duties of an auditor in a corporate structure.

**(10 marks)**

### Question 6

- (a) When may a banker disclose information relating to its customer's account?
- (b) What are the possible defences of a banker who has failed to honour the instructions of a customer?

**(10 marks)**

### Question 7

- (a) Describe the process of voluntary winding up.
- (b) How can the company's property be protected by law following the issue of an order of winding up?

**(4 marks)**

**(6 marks)**

**(Total 10 marks)**

### Question 8

- (a) How may a contract of employment be terminated?
- (b) What constitutes wrongful dismissal and under what circumstances may summary dismissal be justified?

**(10 marks)**

### Question 9

What are the basic qualifications and duties of a company director?

**(10 marks)**