

THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

A Committee of the Council of ICPAU

ATC(U) EXAMINATIONS

LEVEL TWO

PRINCIPLES OF LAW II - PAPER 6

MONDAY, 16 JUNE 2003

INSTRUCTIONS TO CANDIDATES:

1. Time Allowed: **3 hours**
2. Attempt **all** questions in Section **A**, **two** questions from Section **B** and **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** are to be attempted. Each question carries 10 marks
6. Please read further instructions in the answer book.

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SECTION A

Question1.

- (i) Which of the following is not an important component of a memorandum of association clause?
 - (a) Liability clause.
 - (b) Association clause.
 - (c) Accounts clause.
 - (d) Capital clause.
- (ii) Trespass by relation means:
 - (a) Violating the relatives right.
 - (b) Violation of the plaintiff's right to land that relates to an earlier period.
 - (c) Violation of the plaintiff's future right to land.
 - (d) Trespass abnatio.
- (iii) Which of the following is not a mode of terminating an employment contract?
 - (a) Agreement.
 - (b) Frustration.
 - (c) Court order.
 - (d) Surrender.
- (iv) Which of the following is the main purpose of a statutory meeting?
 - (a) Appoint auditors.
 - (b) To examine the prospectus.
 - (c) Accountability from the directors / promoters.
 - (d) None of these.
- (v) Which of the following is not a privileged statement?
 - (a) A statement made by the judges in the course of the proceedings.
 - (b) Statements made between spouses.
 - (c) Those made by members of parliament in the course of parliamentary proceedings.
 - (d) None of the above.
- (vi) Which of the following is not true of a negotiable instrument?
 - (a) The transferee has no right of action against the drawer.
 - (b) It is a chose in action.
 - (c) It is transferable by delivery only.
 - (d) A holder in due course receives it free from all defects.
- (vii) When may a company be held liable on a pre-incorporation contract?
 - (a) When the promoters sign for and on behalf of a company.
 - (b) When the contract is beneficial to the company.
 - (c) When there is novation.
 - (d) By petition.

(viii) A registered debenture is:

- (a) One payable to the bearer.
- (b) One payable to the person named there in.
- (c) One appearing on the registrar's file.
- (d) Both (a) and (b)

(ix) An innuendo is:

- (a) A slander.
- (b) A libel.
- (c) A direct defamatory statement.
- (d) An indirect defamatory statement.

What is the statutory notice that is required for terminating the service of a person who has worked for two years?

- (a) 15 days.
- (b) 1 month.
- (c) Three months.
- (d) 7 days.

(xi) What type of resolution would a company need to pass to create reserve capital?

- (a) Ordinary resolution.
- (b) Special resolution.
- (c) Extra-ordinary resolution.
- (d) No resolution required but only permission from the registrar of companies.

(xii) By what process may a trustee in bankruptcy access the shares of a bankrupt?

- (a) Transfer.
- (b) Petitioning the registrar.
- (c) Transmission.
- (d) Production of a certificate of bankruptcy.

(xiii) What is the legal effect of non- registration of a charge?

- (a) It becomes void against the liquidator.
- (b) Extinguishes the right to pay.
- (c) Has no legal effect.
- (d) Both (a) and (b).

(xiv) What is the statutory requirement for an annual general meeting?

- (a) 14 Days
- (b) 28 Days.
- (c) 21 Days.
- (d) 30 Days.

- (xv) What is the minimum number of members that would constitute quorum for a meeting where the articles are silent?
- (a) 2 and 7 in respect of private and public companies respectively.
 - (b) 2 and 3 in respect of private and public companies respectively.
 - (c) 2 in either company.
 - (d) None of these.
- (xvi) What is the requirement for passing a special resolution?
- (a) 10 % of the shareholders of the paid up capital.
 - (b) 10 % of the members with voting powers.
 - (c) Three quarters majority with 15 days notice.
 - (d) Three quarters majority with 21 days notice.
- (xvii) Which of the following claims take first priority on winding up of a company?
- (a) Liquidator's remuneration.
 - (b) Claims of preferred creditors.
 - (c) Government rates and charges.
 - (d) Wages and salaries due to the employees.
- (xviii) Which of the following persons may not be appointed a liquidator?
- (a) Legal practitioner.
 - (b) Accountant.
 - (c) A company.
 - (d) Auctioneers and court bailiffs.
- (xix) Who is liable to a third party for a misstatement in the audited accounts of a company?
- (a) The company.
 - (b) The directors.
 - (c) The shareholders.
 - (d) The auditor.
- (xx) Which of the following persons may not be allowed to vote at a company's meeting?
- (a) A trustee in bankruptcy.
 - (b) A legal representative.
 - (c) Minority shareholders.
 - (d) Shareholder who has not fully paid for the shares.

SECTION B

Question 2

Cool man, Storm & Thunder formed a company and called it Earthquake, 2000 Ltd. Thunder was appointed a company director and a secretary. The main objective of the company is to alleviate poverty through money laundering. Storm died a week ago and his wife Tena presented the letters of administration, and Thunder rejected to enter her on the register of members. Thunder being the majority shareholder and sole director, called a meeting without notice to Tena and passed a resolution which allowed him to buy a piece of land belonging to the company. Tena feels the land was under sold and is seeking a remedy.

Required:

- (a) Raise and resolve the legal issues arising from the facts. **(14 marks)**
 - (b) Discuss the duties of a secretary in a corporate structure. **(6 marks)**
- (Total 20marks)**

Question 3

“Company meetings provide a forum through which the shareholders express their disappointment and make the directors accountable”

Required:

In light of this statement, discuss the various company meetings and how shareholders participate in the management of a company.

(20marks)

Question 4

ACP Ltd contracted PP Construction Company to renovate its premises under a contract for services. In the process, the managing director of ACP Ltd fell in a pit dug by PP Construction Company to tap rainwater to reduce on water costs and broke his leg. There was no notice that a pit existed in the compound.

In another incident, Madino fell off the roof of the building and lost an eye when the outer wall collapsed due to poor maintenance. ACP Ltd has denied liability in both cases.

Required.

- (a) Advise the aggrieved parties on their rights and possible defences.
 - (b) When may a company be held liable for the acts of its officers?
- (20marks)**

SECTION C

Question 5

Write short but precise notes on the following:

- (a) Priority of debts in winding up. (3 marks)
- (b) Pre-emptive rights. (1 mark)
- (c) A floating charge. (3 marks)
- (d) Creditors voluntary winding up. (3 marks)

(Total 10marks)

Question 6

Describe the rule in **Foss V Harbottle (1842)** and how it has been modified to suit modern business.

(10marks)

Question 7

Discuss the duties, powers and liabilities of a liquidator in the process of winding up.

(10 marks)

Question 8

What are the basic qualifications and duties of an auditor?

(10marks)

Question 9

- (a) Discuss the various types of share capital (4 marks)
- (b) Explain the concepts underlying the principle of maintenance of capital as understood in company law today (1 mark)

(Total 10marks)