

# THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

*A Committee of the Council of ICPAU*

## ATC(U) EXAMINATIONS

### LEVEL TWO

#### PRINCIPLES OF LAW II - PAPER 6

MONDAY, 13 DECEMBER 2004

#### 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

### Question 1

- (i) Which of the following debts take first priority on winding up of a company?
  - (a) Costs of liquidation.
  - (b) Government taxes and local rates.
  - (c) Employees' salary arrears.
  - (d) Claims by secured creditors.
- (ii) Who appoints a liquidator in a compulsory winding up?
  - (a) Registrar.
  - (b) Court.
  - (c) Creditors
  - (d) Members.
- (iii) Who bears the burden of proof in a tort of negligence?
  - (a) The state.
  - (b) The defendant.
  - (c) The plaintiff.
  - (d) The accused.
- (iv) What is the statutory period that is required to terminate services of an employee on probation?
  - (a) 7 days.
  - (b) 14 days.
  - (c) 21 days.
  - (d) 10 days.
- (v) What is an inland bill?
  - (a) A bill drawn and payable in Uganda.
  - (b) A bill drawn and payable in East Africa.
  - (c) A bill drawn outside but payable in Uganda.
  - (d) A bill drawn outside but payable in East Africa.
- (vi) Which of the following does not describe a holder in due course?
  - (a) A person who obtains a bill in good faith.
  - (b) A person who obtains a bill before it becomes overdue.
  - (c) A person who obtains a bill for valuable consideration whether with prior knowledge of fraud or not.
  - (d) A person who obtains a bill without notice of dishonour.
- (vii) Which of the following explains a restrictive endorsement of a bill?
  - (a) Endorsement in blank.
  - (b) Prohibits further negotiation.
  - (c) Endorsement that confers rights on bonafide holder.
  - (d) Endorsement specifying the beneficiary.

- (viii) Which of the following statements enjoys absolute privilege?
- (a) Statements made during parliamentary proceedings.
  - (b) Comments on the presidency.
  - (c) Comments on public figures.
  - (d) Statements made by a head of department on his subordinate officer.
- (ix) Who authenticates official documents in a corporate structure?
- (a) Registrar of Companies.
  - (b) Directors.
  - (c) Auditors.
  - (d) A Company Secretary.
- (x) What is the effect of contributory negligence in a civil matter?
- (a) It is a complete defence.
  - (b) It cannot be pleaded as a defence.
  - (c) It can reduce the quantum of damages.
  - (d) The plaintiff loses the right of claim.
- (xi) Who appoints a Company Secretary?
- (a) The shareholders.
  - (b) The directors.
  - (c) The promoters.
  - (d) The auditors.
- (xii) What is libel?
- (a) An innuendo.
  - (b) A direct defamatory statement.
  - (c) Permanent defamatory statement.
  - (d) Temporary defamatory statement.
- (xiii) Which of the following shares entitle the holder a fixed dividend?
- (a) Ordinary shares.
  - (b) Deferred shares.
  - (c) Qualification shares.
  - (d) Preference shares.
- (xiv) What type of resolution is required to create reserve capital?
- (a) Special resolution.
  - (b) Ordinary resolution.
  - (c) Extra-Ordinary resolution.
  - (d) Circular resolution.

- (xv) Which of the following is not a characteristic of members' voluntary winding up?
- (a) Filing a declaration of solvency.
  - (b) Appointment of a liquidator.
  - (c) Passing a resolution for members' voluntary winding up.
  - (d) Calling a meeting of creditors.
- (xvi) How may a company change its objectives?
- (a) By an ordinary resolution.
  - (b) By extra ordinary resolution.
  - (c) Simple majority resolution.
  - (d) Special resolution.
- (xvii) What is an equitable charge?
- (a) Specific and registered charge.
  - (b) Unregistered charge.
  - (c) Specific charge that remains circulating with assets until it crystallises.
  - (d) Debenture.
- (xviii) Nominal capital is:
- (a) capital at call.
  - (b) the amount issued by a company and paid for.
  - (c) the amount with which a limited liability company is registered.
  - (d) reserve capital.
- (xix) What are the normal weekly working hours in an ordinary undertaking?
- (a) 48 hours.
  - (b) 40 hours.
  - (c) 60 hours.
  - (d) 36 hours.
- (xx) What is the legal status of contract between the company and a minor who has become a shareholder?
- (a) The contract is void.
  - (b) The contract is voidable.
  - (c) The contract is illegal.
  - (d) The contract is unenforceable.

**SECTION B****Question 2**

Musubuzi (U) Ltd was incorporated in June 2004 with the sole objective of processing fruit juice for export. In May 2004, after booking the name with the Registrar of Companies, the company borrowed Shs 2 million (Two million Uganda Shillings) from Sente Bank to meet promotional expenses. Mendo, one of the promoters, rented the company premises at an inflated rate of Shs 3 million (Three million shillings) per month and paid for three years in advance. He received a kickback of Shs 7 million (Seven million shillings). In July 2004, the company entered into a lucrative business of gold mining. It borrowed another Shs 20 million (Twenty million Shillings) from Starhope Bank as start up capital. Mendo and Kisanja became the first directors and shareholders of the company with Deo and Shaban as minority shareholders. Shaban was not able to attend the first company meeting but appointed his brother Tom to represent him. A resolution was passed to novate all pre-incorporation contracts but Tom was stopped from voting on grounds that he was not a member. The company has failed to pay the bank advances. Deo is also contemplating legal action.

**Required:**

- (a) Raise and resolve all the legal issues arising from the facts and advise the parties

**(14 marks)**

- (b) Discuss the duties of a director?

**(6 marks)****(Total 20 marks)****Question 3**

Hill View Hotel Ltd contracted Pendum Construction firm to construct hotel premises under a contract of service. In the process of construction, the building collapsed killing eight employees. A commission of inquiry has been constituted to establish the cause of the collapse. Hill View Hotel Ltd has meanwhile dismissed Nazil, the Managing Director for what the company called gross negligence. While rushing to rescue the victims, the police fire brigade truck rammed into a motorcyclist called Kim, injuring him badly. Kim was admitted to Sanyo Hospital with chest injuries. While he was being operated on, the generator ran out of fuel. He was rushed to Mulago Hospital but died on the way. The families of Kim and the deceased employees are seeking legal advice.

**Required:**

- (a) Advise all the aggrieved parties on their rights and possible defendants.

**(12 marks)**

- (b) Explain the general defences available in a tort of negligence?

**(8 marks)****(Total 20 marks)**

**Question 4**

Drago (U) Ltd is a registered company in Uganda. On 15 December 2003, its directors issued a cheque of Ug Shs. 500,000 drawn on Zed Bank. The money was intended for the end of year party. Mubi who was a highly trusted messenger of the bank altered the amount to read Ug Shs. 5,500,000 and obtained the proceeds of the cheque. When the company resumed new year business, Mubi sneaked into the Managing Director's office and secured the cheque book for the company's account with MS Bank, drew the cheque of Ug Shs. 2,000,000 in the names of Mugezi and successfully forged the signature of the Managing Director. He had the cheque cashed across the counter although it was marked with the words "Account Payee". It has also transpired that three months ago, MS Bank mistakenly credited the company's account with Ug Shs. 20,000,000 which the company drew and purchased land which has now been resold to Mwende. When the company learnt of Mugezi's forgery, it withdrew all the money and only left Ug Shs 50,000. The company is contemplating legal action against the two banks. MS Bank also wants to recover the money it wrongly credited on the company's account.

**Required:**

- (a) Discuss the issues involved and advise the parties on the possibility of success.

**(12 marks)**

- (b) What are the duties of a banker in a customer bank relationship?

**(8 marks)****(Total 20 marks)****SECTION C****Question 5**

Discuss the basic forms of trespass to person and defences available to the defendant in a case of defamation?

**(10 marks)****Question 6**

Describe the circumstances under which compulsory winding up can take place and the consequences of a winding up order.

**(10 marks)****Question 7**

Explain the employer's implied duties and the remedies for breach thereof under a contract of employment.

**(10 marks)****Question 8**

Describe different classes of debentures and how a company can raise capital to finance its activities.

**(10 marks)****Question 9**

Describe the contents of a prospectus and the liabilities that arise from a misleading prospectus.

**(10 marks)**