

THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

A Committee of the Council of ICPAU

ATC(U) EXAMINATIONS

LEVEL TWO

PRINCIPLES OF LAW II - PAPER 6

MONDAY, 21 JUNE 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) What kind of resolution would a company require to alter the Memorandum of Association?
 - (a) Special resolution.
 - (b) Ordinary resolution.
 - (c) Extra-Ordinary resolution.
 - (d) Circular resolution.
- (ii) What are liquidated damages?
 - (a) Damages that can only be determined by court.
 - (b) Damages that are pre-determined by the parties.
 - (c) Damages that are punitive in nature.
 - (d) Damages that are remote.
- (iii) What kind of notice is required to terminate a contract that has lasted between 3-5 years?
 - (a) Three months notice.
 - (b) Two months notice.
 - (c) Fifteen days notice.
 - (d) One months notice.
- (iv) Who bears the burden of proof in a civil case?
 - (a) The State.
 - (b) The defendant.
 - (c) The plaintiff.
 - (d) The accused.
- (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 outside parliamentary proceedings.
 - (d) Reports of the head of department made on his junior.
- (vi) Which of the following is false about 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.
 - (d) A holder in due course receives it free from all defects.
- (vii) By what process may a legal representative access the shares of a deceased shareholder?
 - (a) Transmission.
 - (b) Transfer.
 - (c) Order of the Registrar.
 - (d) Petition.

- (viii) What is the quorum required for passing a special resolution?
- (a) 75%.
 - (b) 51%.
 - (c) 25%.
 - (d) 65%.
- (ix) Where is the register of members kept?
- (a) Registry of Companies.
 - (b) High Court.
 - (c) Company offices.
 - (d) Court of Appeal.
- (x) What is Slander?
- (a) An innuendo.
 - (b) A direct defamatory statement.
 - (c) Permanent defamatory statement.
 - (d) Temporary defamatory statement.
- (xi) Who appoints a Company Secretary?
- (a) The shareholders.
 - (b) The directors.
 - (c) The promoters.
 - (d) The auditors.
- (xii) Who is held liable on a pre –incorporation contract after novation?
- (a) The company.
 - (b) The directors.
 - (c) Promoters.
 - (d) Shareholders.
- (xiii) The auditor of the company is appointed by:
- (a) Registrar of companies
 - (b) Shareholders
 - (c) Creditors of the company
 - (d) The auditor general
- (xiv) What is the statutory period for sending out notice for an Annual General Meeting?
- (a) 14 days.
 - (b) 28 days.
 - (c) 21 days.
 - (d) 30 days.

- (xv) Which of the following is not a characteristic of creditors voluntary winding up?
- (a) Filing a declaration of solvency.
 - (b) Appointment of a liquidator.
 - (c) Passing a resolution for creditors' voluntary winding up.
 - (d) Confirming the list of claims.
- (xvi) 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 Registrar.
 - (d) Special resolution with approval of Registrar.
- (xvii) What is an equitable mortgage?
- (a) Specific and registered charge.
 - (b) Unregistered charge.
 - (c) Specific charge that remains circulating with assets until it crystallises.
 - (d) Debenture.
- (xviii) 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.
- (xix) What is an inchoate cheque?
- (a) Post-dated cheque.
 - (b) Stale cheque.
 - (c) Incomplete cheque.
 - (d) A Cheque that is not negotiable.
- (xx) 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.

SECTION B**Question 2**

Bemba is a sole Director of Bamboozled Ltd. He also works as company director and a secretary. He signed a resolution to borrow and actually borrowed Shs 10 million from Mugaga Bank Ltd without the knowledge of the co-shareholders. He called an Annual General Meeting of the shareholders and issued a notice of seven days. Although only 20% of the shareholders attended a special resolution was passed to sell the Company's house on Kampala Road. It has transpired that the house was undersold to Bemba's wife. Although the company has been making losses for the last five years, the Director declared dividends. Diva, one of the shareholders who did not attend the meeting is unhappy about the decisions taken.

Required:

- (a) Raise and resolve the legal issues arising from the facts. **(14 marks)**
 - (b) Give the rules governing distribution of dividends. **(6 marks)**
- (Total 20 marks)**

Question 3

Deman receives his salary from Kush Bank. When he checked his last statement, it indicated that he had a balance of Shs 5,000,000. He issued a cheque of Shs 2,000,000 to Coin (U) Ltd being the balance on his newly acquired Toyota Prado and another cheque of Shs 50,000 to Jane for the services rendered. The cheque paid to Jane read Shs 50,000 in figures without the words. Jane utilised the space left between the figures altered the figure to read Shs 500,000 and inserted the words as well. Before the cheque were paid, the bank realised that a wrong entry had been made which was reversed leaving a balance of Shs 500,000 only on Deman's account. When the cheques were presented only Jane's cheque was honoured. Coin(U) Ltd has instituted legal proceedings against Deman. Deman believes he can recover the Shs 5 million from the bank since his statement indicated sufficient funds and also intends to recover damages for defamation. He also intends to recover the amount paid to Jane since the cheque was forged.

Required:

- (a) Raise the issues involved and advise Deman on his possibility of success. **(10 marks)**
 - (b) What are the rights and duties of a holder of a bill? **(10 marks)**
- (Total 20 marks)**

Question 4

Kabuzi, a driver with Eagle Breweries Ltd, a company based in Kampala, was sent to deliver beer and collect bottles from Mbarara. On his way back he offered a ride to a friend and drove to Mukono where he negligently collided with Joogo, a cyclist, injuring him badly. Joogo is an employee of Speke Foods Ltd. While assisting Joogo to get the admission at Mengo Hospital he steps on a live wire of electricity which was left uncovered by Electricity Distribution Services Ltd contracted by the hospital administration to rewire the hospital. His leg got paralysed. Joogo recovered five weeks later only to find that he had been dismissed for absconding from work.

Required:

- (a) Advise the aggrieved parties of their legal rights. (10 marks)
 - (b) What are the possible defences available to the parties concerned? (10 marks)
- (Total 20 marks)**

SECTION C

Question 5

Discuss the basic features of a tort and remedies available to an aggrieved party in a case of defamation?

(10 marks)

Question 6

“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 duties of a company director.

(10 marks)

Question 7

Discuss the duties and rights of an employer in a contract of employment.

(10 marks)

Question 8

Describe the various types of shares and the methods of allotment known in law.

(10 marks)

Question 9

Explain the duties of an auditor and the liabilities that arise there-from.

(10 marks)