

# THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

*A Committee of the Council of ICPAU*

## ATC(U) EXAMINATIONS

### LEVEL TWO

#### PRINCIPLES OF LAW II - PAPER 6

**MONDAY, 12 DECEMBER 2005**

#### **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.

## SECTION A

## Question 1

- (i) What do you understand by the term: “**Assault**” under the law of torts?
  - (a) Actual application of unlawful/ unjustified force.
  - (b) Threat aimed at inducement of fear to person of another.
  - (c) Attack of a person of another with abusive words.
  - (d) Causing actual bodily harm to another.
- (ii) Which of the following is the quickest remedy in a case a person has over stayed in prison without trial?
  - (a) Court order of habeas corpus.
  - (b) Damages.
  - (c) Compensation.
  - (d) Injunction.
- (iii) What is a major characteristic of the tort of trespass as compared to negligence?
  - (a) It involves physical contact.
  - (b) It only applies to human being.
  - (c) It may be actionable without proof of injury/damage.
  - (d) It is only actionable upon proof injury/damage.
- (iv) ..... does not qualify to be shareholder in a company.
  - (a) A partnership.
  - (b) An existing company.
  - (c) A minor.
  - (d) A trustee in bankruptcy.
- (v) The following documents are filed with registrar of company before a certificate of incorporation is issued except:
  - (a) Memorandum of association.
  - (b) Prospectus of a statement in lieu of prospectus.
  - (c) Declaration of compliance.
  - (d) Articles of association.
- (vi) Unless all members agree to the contrary a notice of a company’s annual general meeting must at least be?
  - (a) 21 days
  - (b) 42 days.
  - (c) 28 days.
  - (d) 14 days.

- (vii) Upon incorporation a company, becomes capable of the following except:
- (a) Suing and being sued in its own name.
  - (b) Holding property in its own name.
  - (c) Approving contracts made by its promoters.
  - (d) Governing its own affairs through board of directors.
- (viii) In which of the following documents are objects of the company spelt out?
- (a) Articles of association.
  - (b) Memorandum of association.
  - (c) Special notice to the registrar.
  - (d) Statutory declaration of compliance.
- (ix) Transmission of shares is:
- (a) Transfer of shares from one member to another.
  - (b) Marketing of shares to outsiders.
  - (c) Transfer of shares from the director to ordinary shares holders.
  - (d) Transfer of shares by operation of law.
- (x) Which of the following is not true?
- (a) A sole director can be appointed a corporation secretary at the same time.
  - (b) A minor can not be a share holder.
  - (c) A corporation can be appointed as a company director.
  - (d) The maximum number of members in a private company is 50.
- (xi) Which of the following claims take the first priority on winding up of a company?
- (a) Government rate and charges.
  - (b) Creditors claim.
  - (c) Liquidators' remuneration.
  - (d) Employees' wages and salaries.
- (xii) What conclusively shows that a company has been registered?
- (a) A trading licence.
  - (b) A certificate of commencement of a business.
  - (c) A certificate of incorporation.
  - (d) A VAT payment certificate.
- (xiii) Which of the following is a most decisive factor in deciding whether a relation of master/servant relationship exists?
- (a) Masters right relationship exists.
  - (b) Masters payment of wages.
  - (c) Masters power to select employment.
  - (d) Masters right to control of doing work.

- (xiv) Under what circumstances would summary dismissal be justifiable?
- (a) Willful disobedience of lawful duties.
  - (b) Participation in strike.
  - (c) Failure to report on duty upon request to work on public holidays.
  - (d) Conduct of dishonesty or unfaithfulness.
- (xv) What do you understand by the term “debenture”?
- (a) It is a company’s demand note.
  - (b) It is a document in acknowledgement of a company’s debt and security thereof.
  - (c) It is a document in acknowledgement of receipt of money paid for insurance of shares.
  - (d) None of the above describes the term...
- (xvi) What salary deduction may employer make without consent of the employee?
- (a) Payment to a trade union in which the employee is a member.
  - (b) Payment to any pension scheme beneficial to the employee.
  - (c) Payment of school fees of the employee’s children in case he neglects/refuses.
  - (d) Payment to revenue authority amount payable by way of tax.
- (xvii) Which of the following is true about a bill “payable to bearer”?
- (a) The payee is not ascertainable person.
  - (b) Drawer is not ascertainable.
  - (c) Drawee is not ascertainable.
  - (d) Any person who presents it can not be paid cash across the counter.
- (xviii) Which of the following is not a requirement for the maximum of “res Ipso loquitur” to apply?
- (a) The accident must be one which would not happen, had the defendant, under ordinary circumstances, cares.
  - (b) The defendant must be in control of the “thing” where the accident originated.
  - (c) Facts leading to the accident must be unknown.
  - (d) Accident must be one which cannot be caused by a stranger.
- (xix) What is the continuous minimum time of rest that an employee is entitled to have per week?
- (a) Twelve continuous hours.
  - (b) Twenty four continuous hours.
  - (c) Thirty six continuous hours.
  - (d) Forty eight continuous hours.

- (xx) When employee is incapacitated for duty due to illness, after how long is the employer entitled to terminate his/her contract of service?
- (a) 4 months.
  - (b) 3 months.
  - (c) 2 months.
  - (d) 1 month.

## SECTION B

### Question 2

Tofayo Company Ltd was formed in July 2003. Wasiwasi bought 10 shares and was one of the company's directors. At the beginning of this year, Wasiwasi got financial problems and in May 2005 he expressed his desire to have his shares sold off to a fellow company director. A "fair" value of the shares was determined by the company auditors at UShs.120, 000 per share.

The valuation was based on the following information:

- Balance sheet for the year that ended on 31 July 2004 not taking into account the big profit that had been made by the company from 31 July 2004 to May 2005.
- The value of the land, which was acquired in October 2004 was taken as it stood at the time whereas its value had doubled by May 2005. As a result of the above, Wasiwasi's shares were sold at Shs 1,200,000 instead of Shs 2,500,000 if the omissions had not been made. Wasiwasi has vowed to sue the auditors.

Meanwhile, Nabukalu, a 16 years old daughter of Wasiwasi had bought 5 shares from the same company but had only paid for 2 shares. Because of what she considers to be "unfair treatment" of her father that might also befall her, she wants to have her name removed from the company register with immediate effect. She also wants her money for the 2 shares refunded.

### Required:

- (a) Raise and resolve the legal issues arising from the facts.
- (b) Enumerate the duties of a company auditor.

(14 marks)

(6 marks)

(Total 20 marks)

**Question 3**

On the 10 June 2005, at the request of Mukasa, Kapo, an expert in drainage system, after retiring from work went to Mukasa's premises to unblock sewerage pipes. While checking sewerage system, Kapo was overcome by noxious fumes. Because of the gases he had inhaled, Kapo became seriously sick.

Kavuyo a personal driver to Kamali, who was passing his lunch time at a nearby kiosk, offered to take Kapo to the hospital without consent of his master. Before reaching the hospital, Kavuyo received a phone call from his master Kamali to report back. As he was answering in panic, he moved from the lane he was in to the right lane where he collided with oncoming vehicle. As a result of the accident, Kapo's leg was seriously fractured. After one month's failure to report for duty because of the incapacity, KK Company Ltd dismissed Kapo with immediate effect. Kapo is contemplating to sue Mukasa, Kamali and KK Ltd.

**Required:**

- (a) Raise and resolve the issues involved. **(10 marks)**
  - (b) What possible defences can be defendants, in the above case, raise. **(10 marks)**
- (Total 20 marks)**

**Question 4**

Write short notes on any **four** of the following:

- (a) Limited liability clause. **(5 marks)**
  - (b) Pre-incorporation contracts. **(5 marks)**
  - (c) A prospectus. **(5 marks)**
  - (d) A statutory meeting. **(5 marks)**
  - (e) Articles of association. **(5 marks)**
  - (f) A floating charge. **(5 marks)**
- (Total 20 marks)**

**SECTION: C**

**Question 5**

- (a) Explain the duties of a director. (5 marks)
- (b) What are the ways in which duties of a director may be terminated? (5 marks)
- (Total 10 marks)**

**Question 6**

- (a) Who is neighbour as per Lord Atkin in the case of Donaghe vs. Stevenson (1932) A.C. (5 marks)
- (b) Explain the principle of strict liability. (5 marks)
- (Total 10 marks)**

**Question 7**

- (a) Give reasons as to why the law of defamation is important. (5 marks)
- (b) What defences may be put forward in a defamation case? (5 marks)
- (Total 10 marks)**

**Question 8**

- (a) Who is a holder in due course? (5 marks)
- (b) Give major requirement of a valid bill of exchange. (5 marks)
- (Total 10 marks)**

**Question 9**

- (a) Define the term vicarious liability. (5 marks)
- (b) Explain the major principles of the tort of negligence. (5 marks)
- (Total 10 marks)**