

# **THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD**

*A Committee of the Council of ICPAU*

## **ATC(U) EXAMINATIONS**

### **LEVEL TWO**

#### **PRINCIPLES OF LAW II - PAPER 6**

**MONDAY, 19 JUNE 2006**

#### **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) Who of the following is not a party to a bill of exchange?
  - (a) A bank cashier.
  - (b) A drawer.
  - (c) A payee.
  - (d) A drawee.
- (ii) Which of the following is false about a crossed cheque?
  - (a) Payee's banker receives payment from drawee banker on behalf of the payee.
  - (b) Payee's bank may have liability to payee if it fails to collect payment from drawee banker.
  - (c) It can be paid across the counter, if the payee is well known to the bank cashier.
  - (d) None of the above.
- (iii) What is the legal notice for termination of a contract for a probationally period of service?
  - (a) 14 days.
  - (b) 15 days.
  - (c) 7 days.
  - (d) 30 days.
- (iv) For purposes of employment and keeping an employees' register, a young person is one who is below the age of.... Years.
  - (a) 21 years.
  - (b) 18 years.
  - (c) 16 years.
  - (d) 14 years.
- (v) Which of the following is not a ground for winding up?
  - (a) Temporary suspension of business after registration for more than a year.
  - (b) Where the number is reduced below the minimum.
  - (c) Where the company is unable to pay its debts.
  - (d) When there is deadlock in management.

- (vi) When may a restraint clause under the contract of employment not be allowed?
- (a) If it protects misuse of the employer's trade secrets.
  - (b) If it protects business connections.
  - (c) If it is intended to curtail competition.
  - (d) If the geographical coverage is reasonable.
- (vii) Which of the following situations may not amount to a tort of false imprisonment?
- (a) Locking a person in a room whose only exit is the locked door.
  - (b) Surrounding a person in open space in such away that it is impossible for him or her to leave the place.
  - (c) Telling rioters that they have a choice to remain in one open space so that police can be called to disperse them with tear gas.
  - (d) Exposing a gun to a person and instructing such person to remain in one place.
- (viii) What is the principle where a person is liable for tort committed by another?
- (a) Liability without an impact.
  - (b) Occupier's liability.
  - (c) Vicarious liability.
  - (d) Liability of innocent party.
- (ix) Which of the following statements is false?
- (a) Membership in a private company is 2-50 members.
  - (b) Membership in a public company is 7 to infinite.
  - (c) The objects of a company are contained in a memorandum of association.
  - (d) A sole director of a company can as well serve as secretary of the same company.
- (x) Which of the following documents would the Registrar of Companies consider sufficient evidence for compliance with legal requirements before incorporating a company?
- (a) A statutory declaration of compliance with law.
  - (b) A statement of creditworthiness from the company's bankers.
  - (c) A certificate of past record.
  - (d) A special resolution by Directors.

- (xi) Which of the following statements false about a prospectus?
- (a) It is offered for purchase of shares and debentures.
  - (b) It is a public document.
  - (c) It must be in writing.
  - (d) It is offered by private and public companies.
- (xii) The objects of a company may legally be altered by:
- (a) Ordinary resolution.
  - (b) Special resolution.
  - (c) Extra ordinary resolution.
  - (d) Board of Directors' decision.
- (xiii) What is the most appropriate remedy available to the plaintiff under tort of negligence?
- (a) Damages.
  - (b) Injunction.
  - (c) Apology from tortfeasor.
  - (d) Imprisonment of the tortfeasor.
- (xiv) Who has power to declare dividends?
- (a) Directors.
  - (b) Registrar of companies.
  - (c) Auditors.
  - (d) Shareholders.
- (xv) Which of the following is not a lawful method of raising company capital?
- (a) Offering shares to prospective buyers.
  - (b) Underwriting.
  - (c) Ploughing back the profits.
  - (d) A company buying its unsold shares.
- (xvi) An ordinary shareholder of a company has no automatic right to:
- (a) vote on resolution in company meetings.
  - (b) share surplus of the company proceeds upon winding up.
  - (c) participate in day to day company management decisions.
  - (d) transfer his/her shares.
- (xvii) Which of the following is not a true position about company auditors(s)?
- (a) May be appointed by directors before the Annual General meeting.
  - (b) May be appointed at the Annual General Meeting.
  - (c) May be held liable by third parties.
  - (d) Is / are immune from professional negligence.

- (xviii) Every public company having share capital must hold a statutory meeting within 1-3 months from the date of;
- (a) incorporation.
  - (b) commencement of business.
  - (c) grant of a trading licence.
  - (d) issuing a prospectus.
- (xi) What is the minimum notice for an extra-ordinary meeting, where a special resolution is going to be passed?
- (a) 21 days.
  - (b) 28 days.
  - (c) 14 days.
  - (d) 32 days.
- (xx) In which of the following circumstances would a suit based on a tort of assault fail?
- (a) Failure to prove physical injury.
  - (b) Where the injury occasioned to the plaintiff is minor.
  - (c) Where the injury is a result of use of a reasonable force by the arresting officer.
  - (d) Where assault was caused by abusive words from the plaintiff.

## SECTION B

### Question 2

Polly Co. Ltd is a public company limited by shares which was incorporated in 2000 to deal in money exchange. It is run by four directors, Fani, Suna, Safi and Okello. Deltaz Co. Ltd which was offered to take over Polly Company hired Fani as its consultant upon a reward of Shs 1,000,000 if he successfully persuaded the majority of shareholders in Polly company to accept the price being offered by Deltaz. In a general meeting, Polly Co. Ltd refused to accept the price offered by Deltaz. Nevertheless Deltaz Co. paid Fani Shs 1,000,000 for the effort he had put in. Okello, who celebrated his 70<sup>th</sup> birthday last month has vowed not to retire as a company director. As its founder, he wants to participate actively in the company business until his death.

Meanwhile, Ndimba, a clerk to Polly Co. Ltd, came across an open cheque that had been duly signed by Safi who also acted as Finance Manager of the company. The cheque read Ug Shs. = 200,000 leaving a gap between the symbol = and 2. The spaces for the amount in words and for payee were blank. Ndimba wrote the figure "1" in the said gaps to read Shs 1,200,000. He wrote the amount in words in the blank space and wrote his name in the space for payee. Ndimba cashed the cheque at Oddi Bank, the company bank and has since disappeared, making the company lose Shs 1,000,000/=.

Polly Co. Ltd convened an extra ordinary general meeting to discuss Okello's position having given a notice of seven days. In the meeting Fani and Ndimba's dealings were discovered as a result of Okello's defence. A resolution was passed to retire Okello who insists that the resolution was unlawful and will not vacate office. Polly Co. Ltd is contemplating suing Okello, Fani, Oddi Bank and Safi.

#### Required:

- (a) Raise and resolve all the legal issues involved. (12 marks)
  - (b) Advise Polly Company on the chances of success and against whom? (8 marks)
- (Total 20 marks)

**Question 3**

Kagoma was employed by Safari Sugar Works Ltd. In their contract of employment, it was stipulated that among others his duties will include harvesting sugarcane. It was also stipulated that all provisions of Employment Act shall apply in so far as they will be relevant to the contract. One afternoon, Kagoma while cutting sugarcane, accidentally cut off his two fingers. He was hospitalized in a nearby private clinic, where he met the medical bills since his employer refused to pay. He was also denied payment for one month he spent under treatment. After full recovery, Kagoma resumed his duties as he had no other means of survival. However, because of the complaints he had raised about payment of medical bills and salary for the period he was sick, his contract was revised and introduced the following changes.

- (i) Working hours changed from Monday to Friday, 8.00 a.m. to 5.00 p.m. to Monday – Friday, 7.00 a.m. to 7.00 p.m. with only a 10 minutes break for lunch.
- (ii) Saturday and Sunday were made normal working days.
- (iii) The annual leave was reduced to only 10 days.
- (iv) All public holidays were made normal working days.

Kagoma is frustrated and has approached you for advice.

**Required;**

- (a) Advise Kagoma on his rights. (10 marks)
- (b) What constitutes wrongful dismissal and under what circumstances may summary dismissal be justified? (10 marks)

(Total 20 marks)

**Question 4**

Peni Works Company Ltd is a company engaged in the repair and servicing of vehicles. The company employed one Panda whose duties were to, among others remove vehicles from company garage to the repair yard. Under a written contract of employment, he was expressly forbidden from driving vehicles outside the company premises. In the absence of his supervisor, he drove a company vehicle outside the company premises. While in a traffic jam on his return he knocked Paul's car from behind. As a result of the accident Dorotiya who was seated behind sustained injuries, and Paul's vehicle was also badly damaged.

**Required:**

- (a) Advise Paul and Dorotiya on the rights and remedies available to them. (10 marks)
  - (b) State any five reasons why you think law of torts is important. (10 marks)
- (Total 20 marks)

**SECTION C**

**Question 5**

- (a) Distinguish between bonus shares and rights issue of shares. (4 marks)
  - (b) Briefly explain two ways of raising a company's share capital. (3 marks)
  - (c) Give three circumstances under which a company may issue shares at a discount. (3 marks)
- (Total 10 marks)

**Question 6**

The general rule in **Foss Vs. Harbottle** is that when a wrong is done to a company, the proper plaintiff is the company itself.

**Required:**

Explain the exceptions provided by law to ensure that injustice is not occasioned without redress. (10 marks)

**Question 7**

Explain the main qualifications and duties of an auditor? (10 marks)

**Question 8**

- (a) What are the general duties of a holder of bill of exchange?
- (b) Mention three rights of holder of a bill of exchange? (10 marks)

**Question 9**

- (a) Give three circumstances under which trespass to land may be committed (3 marks)
  - (b) What are the main remedies in respect of trespass to land? (7 marks)
- (Total 10 marks)