

# THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

*A Committee of the Council of ICPAU*

## ATC(U) EXAMINATIONS

### LEVEL TWO

#### PRINCIPLES OF LAW II - PAPER 6

**MONDAY, 18 JUNE 2007**

#### 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.

**Question 1**

- (i) Directors' duties are owed to the:
  - (a) shareholders.
  - (b) company auditors.
  - (c) company employees.
  - (d) company creditors.
- (ii) The ... may be liable for misstatement of audited accounts of the company.
  - (a) company secretary
  - (b) company directors
  - (c) company auditors
  - (d) shareholders
- (iii) Which of the following remedies may Court be reluctant to grant upon a breach of a contract of employment?
  - (a) Injunction.
  - (b) Damages.
  - (c) Costs.
  - (d) Reinstatement.
- (iv) The process by which a legal representative can legally own shares of the deceased shareholder is called:
  - (a) transfer.
  - (b) transmission.
  - (c) inheritance.
  - (d) succession.
- (v) Voluntary winding up of a company may be commenced by:
  - (a) order from Court.
  - (b) order from a liquidator.
  - (c) a resolution by company shareholders.
  - (d) a resolution by company employees.
- (vi) When a person goes beyond his/her land boundaries into another's land, he/she may be liable for the tort of:
  - (a) Conversion.
  - (b) False possession.
  - (c) Trespass.
  - (d) Defamation.

- (vii) A company must deliver an annual return to the Registrar of Companies within .... days after holding an Annual General Meeting.
- (a) 30
  - (b) 40
  - (c) 42
  - (d) 60
- (viii) The day-to-day running of a company is in the hands of the:
- (a) company employees.
  - (b) company directors.
  - (c) company secretary.
  - (d) all the shareholders.
- (ix) An employer may be vicariously liable for negligent acts/omissions of his / her employee if at the time of the acts / omissions, the employee was:
- (a) acting in course of his/her employment.
  - (b) on frolic of his/her own.
  - (c) on suspension.
  - (d) on leave.
- (x) The nature of relation between the banker and a customer is;
- (a) governed by law of torts.
  - (b) contractual.
  - (c) procedural.
  - (d) master-servant in nature.
- (xi) The statutory period required to terminate an employee whose services have lasted for four years is ..... days.
- (a) 15
  - (b) 30
  - (c) 45
  - (d) 60
- (xii) Which of the following is **NOT** a defense in a statement that would otherwise constitute a tort of defamation?
- (a) Truth.
  - (b) Fair comment.
  - (c) Absence of malice or ill motive.
  - (d) Privilege.

- (xiii) Where a payee / endorsee of a cheque fails to give a notice of dishonour the:
- (a) payee /endorsee can be sued for negligence.
  - (b) payee /endorsee ceases to be party to the cheque.
  - (c) drawer / endorsee may be discharged of his/her obligations.
  - (d) rights of the payee/endorsee to the cheque are automatically forfeited
- (xiv) A person who takes a bill complete and regular on the face of it, in good faith for value and without notice of any defect in title is called a:
- (a) payee of the bill.
  - (b) drawee of the bill.
  - (c) complete holder.
  - (d) holder in due course.
- (xv) The reason why an issue of shares at a discount is not generally encouraged is to:
- (a) maximize profits of a company.
  - (b) minimize losses of a company.
  - (c) limit number of shareholders.
  - (d) maintain the nominal value of the share capital.
- (xvi) When the plaintiff consents to harm expressly or by implication but afterwards sues for injury, the defendant may raise a defense of:
- (a) Res Ipsa loquitur.
  - (b) Volenti non fit injuria.
  - (c) De minimis non curat lex.
  - (d) Contributory negligence.
- (xvii) ..... is a characteristic of compulsory winding up.
- (a) Filing a declaration or insolvency
  - (b) Appointment of a liquidator
  - (c) Calling a meeting of creditors
  - (d) Passing an ordinary resolution
- (xviii) A document which creates or acknowledges a company debt is called a:
- (a) certificate of acknowledgement.
  - (b) general receipt.
  - (c) charge.
  - (d) debenture.

- (xix) Transfer of a bill to a third party is referred to as:
- (a) transmission.
  - (b) negotiation.
  - (c) cross transfer.
  - (d) surrender.
- (xx) A statutory meeting in respect of a public company is held;
- (a) once every year.
  - (b) once in a company's life time.
  - (c) twice in a year.
  - (d) when members deem it necessary.

## SECTION B

### Question 2

Masaba was recruited from Mbale in 2005, by M/S Instant Flour Company Ltd, to work in Kampala. He was made to sign a contract which among others provided that during the period of the contract, an employee undertakes to:

- a) forfeit his annual leave.
- b) have Shs 3,000 deducted from his / her monthly salary to contribute towards school fees of orphans of deceased company employees.

The above terms were indeed implemented in respect of Masaba and his fellow employees.

During the Christmas season of the Year 2006 Masaba met one Karoli, a Labour Officer, who sensitized him about the rights of employees.

Upon resumption of duty in January 2007, Masaba made it clear to the management that it's high time the company observed his rights and those of his fellow employees. The management since then decided not to provide Masaba with any work and salary.

However Masaba did neither leave the company premises nor secure another job as had been contemplated by the management. Instead he continued to claim for salary for all the days he was not given work.

On 15 March 2007 the management dismissed Masaba with immediate effect. Masaba has come to you for advice.

**Required:**

- (a) Raise and resolve all the issues involved. (12 marks)
  - (b) What appropriate remedies would you suggest for Masaba? (8 marks)
- (Total 20 marks)**

**Question 3**

Zamani Company Limited was incorporated in the Year 2004. Its shareholders as well as directors were Kali, Kamba and Kato.

The Memorandum of Association of Zamani Company stated that the company's objective was to deal in all kinds of electronics.

The Articles of Association of the company contained a clause stating that "any borrowing in excess of Shs 20,000,000 made on behalf of the company must be approved by the company's special resolution.

Kali and Kato who held 42% of the shares convened an extraordinary general meeting and resolved to add an objective of manufacturing sports wear.

Kamba who held 58% of the shares, was given a two days' notice but did not attend as he was on a business trip in Japan.

Subsequently, Kali and Kato borrowed Shs 30,000,000 from OPENI Bank to purchase machinery for making sports wear. The two got a commission of Shs 3,000,000 from the sellers.

The Credit Officer of OPENI Bank visited the Company Registry to confirm existence of Zamani before giving out the loan. He was offered an opportunity to read the Memorandum and Articles of Association but he declined saying that after confirming the existence of the company he was satisfied that the company qualified for a loan.

The company is facing problems and is about to wind up for failure to pay debts.

**Required:**

- (a) Raise and resolve all the issues involved. (8 marks)
  - (b) Advise Openi Bank on how to recover its money. (4 marks)
  - (c) Would your advice to Openi Bank be different, if the objective of manufacturing sports wear was included at the time of registration and the Articles were silent about borrowing? Justify your answer. (8 marks)
- (Total 20 marks)**

#### Question 4

Sodex Company Limited manufactures beer branded "**Your Drink**". The bottles, in which the said beer was sold, were opaque, whereby contents therein were not clearly visible.

Zoga, a retailer, bought some crates of "**Your Drink**" from Sodex Company Ltd for sale in his bar. Mwenge, a customer, took the contents directly without using either a glass or a straw.

While consuming a third bottle, he swallowed a piece of a nail that was contained in the beer. He was taken to the hospital to be operated upon so that the piece of the nail is removed.

Panga who is a regular patron was also drinking from the same bar. While he was going for a 'short call of nature', near old toilets that were under renovation, he fell into a pit. As a result his leg was badly fractured.

It was later established that the pit had been dug by the employees of Renovation Company Ltd, a contractor who had to hand over the premises after completion of the work. Under the same contract, Renovation Company had constructed an alternative place of convenience and had put up a signpost to that effect.

#### Required:

(a) Raise and resolve all the issues involved.

**(14 marks)**

(b) List all possible general defences available to the defendants.

**(6 marks)**

**(Total 20 marks)**

## SECTION C

### Question 5

- (a) Define a prospectus. (2 marks)
  - (b) Give the contents of a prospectus. (6 marks)
- (Total 10 marks)**

### Question 6

- (a) What are the consequences of voluntary winding up of a company? (4 marks)
  - (b) List down priority of payment of debts after winding up. (6 marks)
- (Total 10 marks)**

### Question 7

- (a) What is a cheque? (2 marks)
  - (b) Explain the duties of a banker to a customer. (8 marks)
- (Total 10 marks)**

### Question 8

Capital is viewed as “a wheel” to drive a company to its prosperity.

- (a) How can a private company raise capital to finance its business? (4 marks)
  - (b) What are the legal measures provided to ensure that capital of a company is maintained. (6 marks)
- (Total 10 marks)**

### Question 9

Explain the duties of a Company Secretary and the liabilities that arise therefrom. (10 marks)