

THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

A Committee of the Council of ICPAU

ATC(U) EXAMINATIONS

LEVEL TWO

PRINCIPLES OF LAW II - PAPER 6

MONDAY, 16 JUNE 2008

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) Capital at call is referred to as:
 - (a) issued capital.
 - (b) paid share capital.
 - (c) unpaid share capital.
 - (d) nominal capital.
- (ii) Who of the following appoints a managing director in a company registered under the Companies Act Cap. 110?
 - (a) Registrar of Companies.
 - (b) Shareholders.
 - (c) Company directors.
 - (d) Promoters.
- (iii) Which of the following does not justify protection of an employer, if a former employee sets up a similar business?
 - (a) Trade secrets.
 - (b) Business connections.
 - (c) Market radius.
 - (d) Infringement on trade mark.
- (iv) A cheque which is not completely filled in is referred to as:
 - (a) a stale cheque.
 - (b) a crossed cheque.
 - (c) an open cheque.
 - (d) an inchoate cheque.
- (v) After incorporation, a company becomes capable of doing a number of things **EXCEPT**:
 - (a) suing or being sued in its own name.
 - (b) holding property in its own name.
 - (c) governing its own affairs as a legal entity.
 - (d) ratifying contracts made by the promoters.
- (vi) A debenture means:
 - (a) a company's demand note.
 - (b) an acknowledgement of a debt and security thereof.
 - (c) an acknowledgement of acquisition of company shares.
 - (d) an acknowledgement of a loan advanced to the company.

- (vii) Which of the following cannot constitute a defense in a tort of defamation?
- (a) Privilege.
 - (b) Truth.
 - (c) Fair comment.
 - (d) Lack of malice or ill motive.
- (viii) Prohibition of issuance of shares at a discount is aimed at:
- (a) maintenance of the nominal value of share capital.
 - (b) limiting the number of shareholders.
 - (c) maximization of dividends.
 - (d) minimization of losses.
- (ix) The process through which a company can approve a pre-incorporation contract is referred to as:
- (a) ratification.
 - (b) novation.
 - (c) endorsement.
 - (d) approval.
- (x) A contract between a company and a shareholder who is a minor is, legally:
- (a) void.
 - (b) voidable.
 - (c) unenforceable.
 - (d) impossible.
- (xi) If a registrar of companies declines to register a company without a just cause, which of the following remedies would a plaintiff seek from court?
- (a) Mandamus.
 - (b) Specific performance.
 - (c) Injunction.
 - (d) Certiorari.
- (xii) Which of the following does not qualify as a tort?
- (a) Assault.
 - (b) Conversion.
 - (c) Defamation.
 - (d) Rape.

- (xiii) The objective clause of a company's memorandum can be altered by passing resolution.
- (a) an ordinary
 - (b) a circular
 - (c) a special
 - (d) an extra-ordinary
- (xiv) The minimum period in which reservation of a company name remains in force is days.
- (a) 30.
 - (b) 40.
 - (c) 50.
 - (d) 70.
- (xv) Which of the following is **NOT** one of the ways of raising share capital?
- (a) Floating shares for sale.
 - (b) Company buying unpaid for shares.
 - (c) Borrowing.
 - (d) Ploughing back profits.
- (xvi) If two or more persons hold one or more shares in a company jointly, they are treated as:
- (a) individual members.
 - (b) joint members.
 - (c) a single member.
 - (d) joint holders.
- (xvii) Every person liable to pay or contribute to the payment of any debts or liabilities of a company plus costs and expenses of winding up is referred to as a:
- (a) debenture holder.
 - (b) shareholder.
 - (c) debtor.
 - (d) contributory.
- (xviii) What are the normal weekly working hours in an ordinary undertaking?
- (a) 40.
 - (b) 60.
 - (c) 48.
 - (d) 35.

- (xix) Which of the following is **FALSE**?
- (a) If the employer does not provide work, the employee is not entitled to any pay.
 - (b) An employee is entitled to payment whether the employer provides work or not.
 - (c) It is a duty of an employer to provide an employee with work in accordance with the contract.
 - (d) Employer's duty to provide work ceases if the employee is in breach of contract.
- (xx) Which of the following claims take priority upon winding up of a company?
- (a) Liquidator's remuneration.
 - (b) Claims of preferred creditors.
 - (c) Government rates and charges.
 - (d) Wages and salaries of the company under liquidation.

SECTION B

Question 2

Mr. Gibbs had two accounts with Cash Bank, one current and another savings. He was given cheque books in respect of both accounts. Mr. Gibbs discovered that his wife, Mrs. Gibbs, was forging his signature and withdrawing money from his current account. He did not notify his bank but warned her not to do it again.

However, Mrs. Gibbs continued doing the same on several subsequent occasions. When Mr. Gibbs threatened that he would notify the bank, she committed suicide. Shortly after her death, Mr. Gibbs claimed the money paid on forged signatures from the bank. The bank denied liability and refused to honour cheques drawn by him on his savings account contending that he is not a trustworthy person.

Required:

- (a) Raise and resolve issues arising from the above facts. **(14 marks)**
 - (b) Describe the privileges of a holder in due course of a bill of exchange. **(6 marks)**
- (Total 20 marks)**

Question 3

Zamani, a director and owner of Super Star Secondary School in a Kampala city suburb contracted Ms. Zealous Construction Company Ltd to build a four-storeyed building for the accommodation of increased number of boarding students. While work was in progress, in an unfenced area, Saku, the school supplier of food stuffs passed by. He was hit by falling debris on the head. As a result, he sustained injury which was treated from Sanyu Hospital. There was no notice or warning about any possible danger on the premises under construction.

In a related unfortunate incident, Mondli, a mason working with Zealous company fell down on slippery steps while coming from Zamani's office, where he had gone to pick his letter. His arm was fractured.

Assuming the injured parties came to you for legal advice.

Required:

(a) Raise and resolve issues disclosed by the facts.

(12 marks)

(b) What are possible defences available to defendants?

(8 marks)

(Total 20 marks)

Question 4

In December 2006, Kimu, Kaki, Zili, Zonto, and Miti were among business people who targeted to reap from CHOGM that was held in Uganda in November 2007. In equal shares, they registered a private company, Super Coffee Company Ltd. The company's sole object was to process coffee of high quality.

Zonto who was the managing director bought machinery and coffee stocks worth Shs 400 million from Agronomy (U) Ltd. and got a commission of Shs 20 million. In January 2008, Joy Zili approached the directors with letters of administration to have shares of her late husband Zili, who had died shortly after CHOGM, transferred into her names. By the end of March 2008, the directors who had refused to register her, had not communicated to her about their decision.

In mid March Zonto invited shareholders for an extra-ordinary general meeting, having given them 7 days' notice. Only Zonto and Miti attended the meeting. They passed a resolution to alter the objects of the company, by adding an object to deal in general merchandise to expand the scope of the company's business.

Required:

- (a) Raise and resolve issues involved. (14 marks)
 - (b) What are other instances in which a person may claim for shares to be transferred into his or her names? (6 marks)
- (Total 20 marks)

SECTION C

Question 5

- (a) Mention the **three** types of private companies. (3 marks)
 - (b) Explain the general features of private companies. (7 marks)
- (Total 10 marks)

Question 6

- (a) State the general rule in Foss Vs Horbottle. (2 marks)
 - (b) What are the exceptions to the general rule? (8 marks)
- (Total 10 marks)

Question 7

- (a) Define the term 'tort'. (2 marks)
 - (b) What are the general features of a tort? (8 marks)
- (Total 10 marks)

Question 8

"The bank's duty of secrecy is a legal one arising out of contract and is not absolute but qualified", per Bankes Lord Justice in Tournier Vs National Provincial and Union Bank of England.

Required:

- (a) State the duty of secrecy that a bank owes its customer. (2 marks)
 - (b) What are the circumstances under which disclosure may be justified? (8 marks)
- (Total 10 marks)

Question 9

Describe the duties and powers of a liquidator.

(10 marks)