

# THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

*A Committee of the Council of ICPAU*

## ATC(U) EXAMINATIONS

### LEVEL ONE

#### PRINCIPLES OF LAW I - PAPER 2

**MONDAY, 8 DECEMBER 2008**

#### INSTRUCTIONS TO CANDIDATES:

1. Time allowed: **3 hours**
2. Attempt **all** questions in Section **A**, any **two** questions in Section **B** and any **three** questions in Section **C**.
3. Section **A** has **twenty** compulsory multiple-choice questions, each carrying 1½ marks.
4. Section **B** has **three** questions and only **two** are to be attempted. Each question carries 20 marks.
5. Section **C** has **four** questions and only **three** are to be attempted. Each question carries 10 marks.
6. Please read further instructions on the answer booklet.

## SECTION A

### Question 1

- (i) What is meant by the term “common law”?
  - (a) Part of English law which was formally enacted by Parliament.
  - (b) Part of English law which has been developed by means of judicial precedent.
  - (c) Part of English law which has not been formally enacted by Parliament.
  - (d) Part of English law which consists of the Acts of Parliament.
- (ii) The doctrine of “Stare decisis” states that;
  - (a) a decision of a court remains binding unless another one is made by a higher court overturning it.
  - (b) the lower courts’ decisions bind higher courts.
  - (c) only important decisions are binding.
  - (d) all courts’ decisions at whatever level bind the lower courts.
- (iii) A contract is:
  - (a) an agreement between two or more persons with an intention of making profits.
  - (b) anything that is agreed upon by different parties.
  - (c) the relationship that exists between a trader and his customer.
  - (d) an agreement between two or more persons which is intended to create legally binding obligations.
- (iv) Under the law of contract, a benefit accruing to one party or some detriment suffered by the other is referred to as:
  - (a) consideration.
  - (b) offer.
  - (c) acceptance.
  - (d) consent.
- (v) A contract with a minor is:
  - (a) illegal.
  - (b) voidable.
  - (c) void.
  - (d) enforceable when a minor grows up.

- (vi) Which of the following is **NOT** a duty of an agent?
- (a) Care and skill.
  - (b) To act in good faith.
  - (c) To account.
  - (d) Ratification.
- (vii) Which of the following is **NOT** correct?
- (a) A disclosed principal can sue a third party.
  - (b) An undisclosed principal cannot sue a third party.
  - (c) The law recognizes a wife's agency of necessity when she is deserted.
  - (d) The husband is not bound by his wife's contract where the goods and services are not regarded as necessities.
- (viii) Which of the following is true about partnerships?
- (a) The liability of partners is limited.
  - (b) Partners have no power to bind the partnership firm.
  - (c) Partnership is based on mutual confidence and trust.
  - (d) The death or retirement of a partner does not dissolve a partnership.
- (ix) The relationship that subsists between persons carrying on business with a view of making profits is:
- (a) partnership.
  - (b) corporation.
  - (c) company.
  - (d) business.
- (x) Which of the following statements are correct about a minor?
- (i) He /she can enter into a partnership agreement.
  - (ii) He /she who is a partner does not incur contractual liability for partnership debts.
  - (iii) Judgment against the firm is only enforceable against the partners other than a minor.
- (a) (i) and (ii)
  - (b) (ii) and (iii)
  - (c) (i) and (iii)
  - (d) (i), (ii) and (iii)

- (xi) A legal person in law is:
- (a) a lawyer.
  - (b) an incorporated company
  - (c) an association.
  - (d) a learned friend.
- (xii) A certificate of ..... shows that the company is registered and allowed to operate.
- (a) registration of business name
  - (b) insurance
  - (c) incorporation
  - (d) birth of a company
- (xiii) A public limited company is composed of:
- (a) two to twenty people
  - (b) seven people to infinity.
  - (c) seven to fifty people.
  - (d) two people to infinity.
- (xiv) The constitution of a company is contained in the:
- (a) company files.
  - (b) company register.
  - (c) company resolutions.
  - (d) memorandum and articles of association.
- (xv) A company has:
- (a) limited shareholders.
  - (b) perpetual succession.
  - (c) partnership deed.
  - (d) a managing director only.
- (xvi) What are the duties of a promoter?
- (a) To pay company pre-incorporation debts.
  - (b) To disclose any secret profits.
  - (c) To appoint directors of a company.
  - (d) To look for business of a company.
- (xvii) What does the term "obiter dicta" mean in law?
- (a) The gist of the judgment.
  - (b) A less important part of the judgment.
  - (c) The part passed by the majority judges.
  - (d) A pronouncement by the Chief justice.

- (xviii) Under what circumstances may the principal **NOT** be bound by the acts of his agent?
- (a) When the agent has expressly disclosed his and the principal's status.
  - (b) When the principal is out of the country.
  - (c) When the agent's acts are ultra vires.
  - (d) When the principal is bankrupt.
- (xix) An agent may not be liable for breach of implied warranty of authority in the following cases **EXCEPT** where:
- (a) lack of authority was known to a third party.
  - (b) representation of authority is one of law.
  - (c) the principal is liable to the third party on the ground of apparent or usual authority.
  - (d) representation is one of fact or opinion.
- (xx) A company must:
- (a) hold a special meeting every year.
  - (b) renew its certificate every month.
  - (c) hold one statutory meeting in its life time.
  - (d) not sue or be sued.

## SECTION B

### Question 2

Jawe was Pamela's agent and on Pamela's behalf he made several contracts with Tornado over a period of time. Due to misunderstandings between them, Pamela decided to terminate Jawe's agency. Jawe being a big-headed person never respected his termination and continued to deal with Tornado and other customers in his name and on his behalf. Tornado and other customers were not informed that the agency was terminated. As they continued to deal with Jawe, he got a misfortune and all his property was destroyed by fire, whereupon he became insolvent. Tornado and other customers as a result sustained heavy losses and now claim to be entitled to damages by way of compensation from Pamela.

#### Required:

Advise Pamela as regards her liability.

**(20 marks)**

### Question 3

Candida, Dorotia and Ema carried on business in partnership as Accountants. The partnership deed prohibited a partner from borrowing money on behalf of the firm. Dorotia borrowed money from Mboko, stating that the loan was required for the purposes of the partnership. Other partners were not aware about this. Candida wanted to access the books of accounts for the partnership but she was barred by the accountant of the firm, maintaining that Candida had no right to do that.

In that confusion Ema died in an accident. Candida and Dorotia are locked up in quarrels about the management of the partnership.

#### **Required:**

Advise the parties and show how partnerships can come to an end.

**(20 marks)**

### Question 4

The doctrine of legal personality as applied by the courts of law today simply means that companies by setting up a group structure can avoid liability for debts and claims for damages which other non-corporate persons would be liable for. There are situations where the doctrine will be set aside to contain the owners / directors of the company.

#### **Required:**

Discuss the above statement and explain circumstances under which such a situation would be dealt with to find the members of the company personally liable on a company transaction.

**(20 marks)**

## **SECTION C**

### Question 5

What are the reasons for delegated legislation?

**(10 marks)**

### Question 6

Write short notes on the rules for consideration in the law of contract.

**(10marks)**

**Question 7**

(a) Define the term “public company”.

**(2 marks)**

(b) What are the effects of incorporation?

**(8 marks)**

**(Total 10 marks)**

**Question 8**

(a) What is partnership?

**(2 marks)**

(b) List the contents of a partnership deed.

**(8 marks)**

**(Total 10 marks)**