

THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

A Committee of the Council of ICPAU

ATC(U) EXAMINATIONS

LEVEL TWO

PRINCIPLES OF LAW II – PAPER 6

TUESDAY, 27 NOVEMBER 2012

INSTRUCTIONS TO CANDIDATES:

1. Time allowed: **3 hours 15 minutes**.
The first 15 minutes of this examination have been designated for reading time. You may not start to write your answer during this time.
2. This examination contains Sections **A**, **B** and **C**.
3. Section **A** is bound separately from Sections **B** and **C**.
4. Attempt all the 20 multiple-choice questions in Section **A**. Each question carries 1 mark.
5. Attempt **two** of the **three** questions in Section **B**. Each question carries 20 marks.
6. Attempt **four** of the **five** questions in Section **C**. Each question carries 10 marks.
7. Write your answer to each question on a fresh page in your answer booklet.
8. Please, read further instructions on the answer booklet, before attempting any question.

SECTION B

Attempt two of the three questions in this section.

Question 2

On 14 May 2011, Zuka, Mupenzi's driver went to Entebbe International Airport to pick Jossy. Jossy had arrived from China where he had gone on a business trip. While Jossy was taking breakfast at Kajansi where they had a stopover, Zuka used the chance to drive across, to watch a promotion for new mobile phones that had been staged around the area. Unfortunately before reaching the scene, he knocked Kabego, who was also going for the same promotion but had stopped to drive away two cows that had strayed and were obstructing the road traffic. Kabego sustained serious injury on his left arm and was taken to Pole Hospital for treatment.

Immediately after knocking Kabego, Zuka made a U-turn unnoticed and drove off with Jossy to Kampala to Mapenzi's residence where lunch was being prepared in honour of Jossy's safe return. Zuka did not disclose to his employer what had happened but he immediately abandoned his job.

Ten days after admission, Dr. Sukuma who was attending to Kabego found it necessary to have Kabego's arm amputated. Whereas Kabego had initially agreed to the operation, he changed his mind on the following day as preparations were being made to take him to the theatre. However, on orders of Dr. Sukuma, the hospital nurses rushed Kabego to the theatre "to save his life". The operation was successfully done by Dr. Sukuma.

It was later established that Dr. Sukuma was actually an employee of Quick Surgery Services Ltd which had been contracted by Pole Hospital for surgery services.

Kabego needs legal advice.

Required:

(a) Raise and resolve the legal issues involved.

(14 marks)

(b) What are the possible defences available to the intended defendants?

(6 marks)

(Total 20 marks)

Question 3

Okiria holds 80% shares in KK Ltd. He is both the managing director and auditor of the company. On 20 February 2012, Okiria's private car was impounded. It was advertised for sale to settle a debt of Shs 10 million owed to Liquidity Bank Ltd. Whereas Okiria had produced documents showing that he had incurred the debt on behalf of the company and also produced a log book indicating that the impounded car was in his names, he was taken to be identical to the company.

Yuda, Wapa, Maka and Kana, the other shareholders, have individually on several occasions approached Okiria for explanation on how the affairs of the company are being managed but he has declined to provide them with this information. After failing to secure a response, a general meeting was organized by Wapa who gave notice of 5 days to other members. No notice was given to Okiria.

In the general meeting attended by all invited shareholders, it was resolved to dismiss Okiria on grounds that he was irregularly holding the position of auditor and had failed to give accountability.

Required:

- (a) Raise and resolve the issues involved.

(20 marks)

Question 4

On 3 March 2011, Maria, a businesswoman, sold her car to Newton at Shs 20 million. Although Newton was not known to her, he paid for the car by cheque. The cheque had been endorsed to Newton by Kapere. Without the knowledge of Kapere and Maria, Newton had altered the figures on the cheque by adding "0" in the space left between 2 and the first 0 to change Shs 2 million to Shs 20 million. He had also filled the amount in words in the blank space that Kapere had left. Newton then endorsed the cheque that had been drawn on Mapesa Bank to Maria for the car.

Maria endorsed the cheque to James as consideration for the purchase of his house, at Shs 20 million. Since there were sufficient funds on Kapere's account, the bank honoured the cheque. The irregularity was later discovered and the bank immediately reported the matter to police who in turn put a warning circular on its notice board, warning the public about cheque forgeries. Details of what had exactly transpired were shared by police.

Whereas Newton has since gone into hiding, Kapere argues that he has been betrayed by the bank and wants to recover the amount debited in excess of Shs 2 million. He also wants to sue the bank for breach of secrecy.

Required:

- (a) Raise and resolve the issues. (16 marks)
 - (b) What are the duties of a bank to a customer? (4 marks)
- (Total 20 marks)**

SECTION C

Attempt four of the five questions in this section.

Question 5

- (a) State the general principle in the case of Foss v. Harbottle. (2 marks)
 - (b) Give reasons why the principle is very important in company affairs to the extent that it is only in exceptional circumstances that it is not upheld by courts of law and equity. (8 marks)
- (Total 10 marks)**

Question 6

- (a) Who is a liquidator? (2 marks)
 - (b) Explain the duties of a liquidator. (8 marks)
- (Total 10 marks)**

Question 7

- (a) Outline the qualifications of an auditor. (2 marks)
 - (b) Explain the duties of an auditor. (8 marks)
- (Total 10 marks)**

Question 8

- (a) What are the essential elements of a tort of defamation? (4 marks)
 - (b) Explain the defences available for the tort of defamation. (6 marks)
- (Total 10 marks)**

Question 9

- (a) What are the duties of a holder of a bill? (6 marks)
 - (b) Under which circumstances may a bill be discharged? (4 marks)
- (Total 10 marks)**