

THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

A Committee of the Council of ICPAU

CPA(U) EXAMINATIONS

LEVEL ONE

BUSINESS LAW – PAPER 3

TUESDAY 17 DECEMBER 2002

INSTRUCTIONS TO CANDIDATES

1. Time allowed: **3 hours.**
2. Attempt **all** questions in Section **A** and **B** and any **three** questions from Section **C**.
3. Section **A** has **twenty** compulsory multiple-choice questions each carrying 1 mark.
4. Section **B** has **one** compulsory question of 20 marks.
5. Section **C** has **five** questions and only **three** questions are to be attempted. Each question carries 20 marks.
6. Please, read further instructions on the answer book before attempting any question.

SECTION A

Question 1

- (i) Which of the following is correct?
 - (a) A private limited liability company has only one shareholder.
 - (b) A sole trader has limited liability.
 - (c) The liability of members of a private limited company may be unlimited.
 - (d) The liability of members of a public limited liability company is limited to 7 members.
- (ii) The incorporation of a company is evidenced by;
 - (a) Memorandum of Association.
 - (b) Articles of Association.
 - (c) A Statutory Declaration.
 - (d) Certificate of Incorporation.
- (iii) Which of the following documents is not a prerequisite for registration of a private limited company?
 - (a) Prospectus or statement in lieu of prospectus.
 - (b) Statement of nominal capital.
 - (c) Articles and Memorandum of Association.
 - (d) Statutory Declaration.
- (iv) The objects of the company may be altered by:
 - (a) The Directors' Resolution.
 - (b) Extra-ordinary Resolution.
 - (c) Special Resolution.
 - (d) Ordinary Resolution.
- (v) Which of the following is correct?
 - (a) Only company members may be appointed as proxies.
 - (b) Proxies do not have a right to speak at a meeting.
 - (c) A proxy's appointment cannot be revoked.
 - (d) A proxy need not be a member of the company.

- (vi) Which of the following is false?
- (a) An employee is not entitled to any pay if the employer cannot provide him with work.
 - (b) An employee may get paid if the employer cannot provide work in accordance with the contract.
 - (c) It is the duty of the employer to provide work to the employees in accordance with the contract.
 - (d) The employer's duty to provide work ceases if the employee is in breach of contract.
- (vii) Which of the following is correct?
- (a) A probationary contract cannot be terminated.
 - (b) An employee cannot be on probationary terms of service on more than one occasion for the same job.
 - (c) A probationary period of service can never exceed six (6) months.
 - (d) Termination of a probationary period of service does not require any notice.
- (viii) When may an employer be exempted from repatriating an employee?
- (a) When the contract has been terminated due to the employer's inability to fulfil the contract.
 - (b) When the contract is terminated by order of Court due to the employee's fault.
 - (c) When the contract is terminated at the expiry of the contract term.
 - (d) When the contract is terminated by agreement.
- (ix) A partner is expelled from a partnership when:
- (a) the majority partners so decide.
 - (b) the partner is dormant.
 - (c) such power is conferred by express agreement.
 - (d) it is just and equitable to expel such a partner.
- (x) A partnership shall be dissolved by aid of Court:
- (a) at the expiry of its fixed term.
 - (b) when it becomes illegal to carry on the business of the firm.
 - (c) when one partner gives notice to dissolve the partnership.
 - (d) when one partner becomes insane.

- (xi) Which of the following is false?
- (a) The extra-ordinary meeting of a company is convened only once a year.
 - (b) A company must hold a statutory meeting at least once a year.
 - (c) The election of new company directors is done at the statutory meeting.
 - (d) The appointment of Auditors and fixing of their remuneration is done at the Annual General Meeting.
- (xii) Goodwill is:
- (a) An attractive force which brings customers to a business and legally amounts to consideration.
 - (b) A benefit or advantage that accrues to a business when it closes and legally amounts to consideration.
 - (c) An interest the partners have in business and legally amounts to consideration.
 - (d) An interest customers have in business and legally amounts to consideration.
- (xiii) Which of the following is correct?
- (a) Partners are paid for acting in a partnership business.
 - (b) No partner is entitled to remuneration for acting in a partnership business.
 - (c) A partner may pay himself for acting in a partnership business.
 - (d) All partners are paid equally for acting in the partnership business.
- (xiv) Executory consideration is:
- (a) Consideration in return for the performance of any act.
 - (b) Consideration which is extended.
 - (c) Consideration for a future transaction.
 - (d) Consideration that has failed.
- (xv) A fault in the formation of a contract may;
- (a) lead to liability by the parties.
 - (b) lead to an illegality.
 - (c) make the parties pay damages.
 - (d) make the contract void.

- (xvi) An offer is not terminated by;
- (a) Acceptance.
 - (b) Revocation by the offeror.
 - (c) Lapse of time.
 - (d) Counter-offer.
- (xvii) A “del credere” agent;
- (a) Is appointed for a particular purpose only.
 - (b) Promises that the clients shall pay the principal.
 - (c) Represents the principal in all business, of a particular kind.
 - (d) Has only limited powers.
- (xviii) A person for whose benefit real property is held is called:
- (a) Trustee.
 - (b) “Cestui que” trust.
 - (c) Benefactor.
 - (d) Minor.
- (xix) The highest Court of judicature in Uganda is;
- (a) The High Court.
 - (b) The Court of Appeal.
 - (c) The Supreme Court.
 - (d) The Constitutional Court.
- (xx) The rule governing “Stare decisis” states that;
- (a) The precedents of higher Courts bind lower Courts.
 - (b) All Courts’ decisions are binding.
 - (c) The lower Courts cannot make binding decisions.
 - (d) Only reasonable decisions are binding.

SECTION B

Question 2.

Namuddu was recruited from Ssembabule District by M/s. Apparel Ltd. to work in its clothing factory in Masaka. At the time she was recruited, she was only 14 years of age having failed to continue with her education the previous year at a local secondary school. She was made to sign a contract that among other things prohibited her and other workers at the factory from taking holidays during the subsistence of their contracts. Although she has worked at the factory for close to one year, she has never been paid her salary. When she demanded for her salary recently she was shocked to be told that her salary had always been paid to someone who claimed to be her guardian. That in fact the company does not owe her anything instead the management of the company has decided to terminate her employment due to what they called unreasonable demands. She was thrown out of the company premises. She has met you on the road and she desperately needs advice.

Required:

Discuss the issues raised and give her the appropriate advice.

(20 marks)

SECTION C

Question 3

(a) What is a holding Company?

(10 marks)

(b) What do you consider to be the major differences between the Articles of Association and the Memorandum of Association of a Company?

(10 marks)

(Total 20 marks)

Question 4.

“In a case where a wrong has been committed to the company, the proper plaintiff to sue for the wrong is the company itself acting through its directors and not any shareholder.” Per the case of **Foss v Harbottle**”.

Required:

Explain the above statement and discuss the exceptions thereto.

(20 marks)

Question 5

Write short notes on the various types of Company Resolutions.

(20 marks)

Question 6

The Bintubizibu family have been doing business under the firm name of M/s Bintu Brothers. The firm's business was at its worst when one of the three brothers passed away. In fact prior to his demise the partners in M/s Bintu Brothers were in the process of transforming the firm into a company so as to mobilise increased capital. They had started calling themselves M/s Bintu Brothers and Co. Ltd as they worked on the formal registration of the company. Mwiine had been doing business with the firm and it owed him a lot of money. He had even continued to make delivery of spare parts even after the death of one of the partners. However recently when he attempted to make another delivery, the management of M/s Bintu Brothers and Co. Ltd., declined to receive it on grounds that their company does not have a contract with him. They further argue that after all the delivery was delayed and they had no use for the spare parts since the factory for which they were ordered had been sold. It was also established that some of the spare parts delivered did not conform to the specifications that had been originally given. Now Mwiine has mobilised all the creditors of the now defunct M/s Bintu Brothers to demand their money. They want your advice.

Required:

Give them your considered opinion clearly detailing the rights of all the parties and any remedies available to them.

(20 marks)

Question 7

(a) Define and discuss the doctrine of equity.

(10 marks)

(b) Define privity of contract and explain four of its exceptions.

(10 marks)

(Total 20 marks)