

# THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

*A Committee of the Council of ICPAU*

## CPA(U) EXAMINATIONS

### LEVEL ONE

#### BUSINESS LAW – PAPER 3

**TUESDAY, 14 JUNE 2011**

#### 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. Attempt **all** questions in Sections **A**, any **two** questions from Section **B** and any **two** 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** questions are to be attempted. Each question carries 20 marks.
5. Section **C** has **three** questions and only **two** 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) Equity can be defined as the:
  - (a) body of laws governing the traditional systems of English law.
  - (b) fairness, consciousness and morality codes of the English system.
  - (c) body of discretionary rules and remedies devised by the courts on the basis of fairness and good conscience to remedy the defects of common law.
  - (d) rules whereby the citizens are allowed to apply directly to the President or the King to obtain a remedy by way of royal intervention.
- (ii) Which of the following supersedes other laws?
  - (a) Common law.
  - (b) Statute law.
  - (c) Equity.
  - (d) Customary law.
- (iii) A precedent will **NOT** be binding if it:
  - (i) has been overruled by a higher court.
  - (ii) has been overruled by statute.
  - (iii) was made per in curium
  - (a) (i) and (ii)
  - (b) (i) and (iii)
  - (c) (ii) and (iii)
  - (d) (i), (ii) and (iii)
- (iv) The rule about past consideration has been relaxed by providing that an act done before a promise can be considered if the following conditions are satisfied:
  - (i) The act must be done at the request of the promisor.
  - (ii) It must have been understood that payment would be made.
  - (iii) Payment, if it had been promised, must have been legally recoverable.
  - (a) (i) and (ii).
  - (b) (i) and (iii).
  - (c) (ii) and (iii).
  - (d) (i), (ii) and (iii).

- (v) The following types of contracts must be in writing **EXCEPT**.
- (a) sale of cars.
  - (b) bills of exchange.
  - (c) promisory notes.
  - (d) sale of land.
- (vi) Which of the following is **NOT** correct?
- (a) Mistake as to quantity may invalidate a contract.
  - (b) Mistake negatives consent where it prevents the parties from reaching agreement.
  - (c) Mistake does not nullify consent where parties reach an agreement which is based on a fundamental mistaken assumption.
  - (d) At law the effect of mistake is to make a contract void
- (vii) What is the principal function of an agent?
- (a) To make deals with the principal.
  - (b) To make contracts on behalf of the principal.
  - (c) To act as the go between the principal and his associates.
  - (d) To make profits for the principal.
- (viii) Which of the following persons undertakes to wind up and distribute the deceased's estate?
- (a) Administrator.
  - (b) Attorney.
  - (c) Beneficiary.
  - (d) Relative
- (ix) Which of the following is **FALSE** about partnership law?
- (a) Every partner is jointly liable with others for all debts and obligations of the firm.
  - (b) After the death of a partner his estate is severally liable for debts and obligations of the firm.
  - (c) A person admitted as a new partner into an existing firm must pay debts of the firm even before he was admitted.
  - (d) The partners are jointly liable for breach of the firm's contract.

- (x) Which of the following is **NOT** correct about employment law?
- (a) Employer's duty to provide work ceases if the employee is in breach of contract.
  - (b) If the employer does not provide work, the employee is not entitled to any pay.
  - (c) An employee is entitled to payment whether the employer provides work or not.
  - (d) It is a duty of an employer to provide an employee with work in accordance with the contract.
- (xi) Which of the following is **NOT** a duty of the employer to the employee?
- (a) To render personal service.
  - (b) To pay reasonable remuneration.
  - (c) To indemnify the employee.
  - (d) To provide a safe system of work.
- (xii) If an employee is injured at work and decides to bring an action against his employer in the tort of negligence, which of the following must be proved in order to succeed?
- (i) The employer owes him a duty of care.
  - (ii) The employer breached that duty of care.
  - (iii) The employee's injury was caused by the breach of the duty and was not too remote.
- (a) (i) and (ii)
  - (b) (i) and (iii)
  - (c) (ii) and (iii)
  - (d) (i), (ii) and (iii)
- (xiii) A voluntary winding up of a company is commenced by a:
- (a) resolution of creditors.
  - (b) resolution of the company's members.
  - (c) petition to the high court by the creditors.
  - (d) liquidator realizing the assets of the company.
- (xiv) Which of the following information is not contained in the memorandum of association of a public company?
- (a) Regulations for managing the internal affairs of the company.
  - (b) The name of the company.
  - (c) The objects of the company.
  - (d) The subscription clause.

- (xv) What do you understand by ultra vires in company law?
- (a) Acts beyond the powers contained in the articles of association of the company.
  - (b) Actions of a person working with company and are contrary to the law.
  - (c) Acts beyond the powers contained in the memorandum of association.
  - (d) Actions of a director who is unqualified.
- (xvi) Which of the following is **NOT** true in company law?
- (a) A company limited by shares is whose members' liability is limited to the amount, if any, unpaid on their shares.
  - (b) A company limited by guarantee has its members' liability limited to the amount guaranteed to be contributed to the assets of the company in event of its liquidation.
  - (c) The limitation of the liability is contained in the company's memorandum of association.
  - (d) Members of unlimited companies have a specified limit on their liability in the event of the company's insolvency.
- (xvii) What authority does a company secretary have?
- (a) Power to enter into transactions on behalf of the company.
  - (b) To manage the office of the Director of the company.
  - (c) To prepare the books of accounts for the company.
  - (d) To oversee the general running of the company.
- (xviii) Which of the following is **NOT** a fiduciary duty of directors?
- (a) Exercise of powers in good faith of the company.
  - (b) Not to allow conflict of interest with the company.
  - (c) Not to disclose secret profits.
  - (d) Not to make secret profits.
- (xix) How often does a registered company have to pass a resolution appointing auditors?
- (a) After every two years.
  - (b) Each year.
  - (c) After three years.
  - (d) Each month.

(xx) When may the veil of incorporation of a company be lifted?

- (a) When a resolution is passed to that effect.
- (b) If it is an agent of another partner company.
- (c) When a company is reverted into partnership.
- (d) If a company is used to commit a crime.

## **SECTION B**

### **Question 2**

Onyole, a lawyer agreed with Onzima a mechanical engineer, that he will assist to defend him in a civil case if Onzima will service his car for him. He also agreed with Maliba a furniture dealer, that he will advise Maliba on installation of a computerised camera if Maliba in return, will secure a fancy set of furniture to be put in the house of Onyole's daughter, Anne.

Onyole did his part and assists Onzima and advises Maliba, but both refused to carry out their side of agreement. Because Onyole's car is not serviced it broke down at Karuma bridge when he was on the way to court from Kampala to Arua. Onyole was very late to attend court and the case was dismissed with costs of fifty million shillings as costs to his client and as a result his client switched to another lawyer. The client was not ready to pay Onyole for the services so far rendered.

Anne is anxiously waiting to be supplied with fancy furniture by Maliba because of his reputation for supplying good furniture.

#### **Required:**

Advise Onyole and Anne as to the nature of contractual remedies, if any, which may be available to them.

**(Total 20 marks)**

### **Question 3**

A newly formed company by names of Tufanye Kazi Ltd has been dealing in importing of fish fillets from Sudan. The company had employed three directors on contract basis. These directors are Angino who was contracted for 6 years, Kaleto for 8 years and Bandana for 10 years. Members of the company realized that the company was at the verge of collapsing and did not know the cause. Later, it was found out that there was confusion among the directors. On realizing that Bandana was big headed they decided to remove Bandana who had served for only three years so far.

**Required:**

Advise the members how his removal could have been achieved and on the means by which Bandana could have opposed his removal.

**Question 4**

Tukole Bukozi Company Ltd is based in Kalangala District dealing in saw milling. It employed many employees from Kabale and Kisoro District to help in felling trees. They all signed the contract of employment with the company and among the terms was that they were not entitled to leave as the company was desirous of making a lot of profits and that each employee was to contribute Shs 60,000 each month to the manager to pursue his master's degree in Dar-es-Salaam University.

As the work was in progress, Katalikawe, one of the workers was hit by a log of timber which broke his arm and could not work for a whole month since he was being hospitalized at one of the clinics in Kalangala.

He was later discharged and reported to the company to resume his work only to be told to quit and go back to Kabale as he was not fit to work with the company. He was not paid the salary when he was in the clinic. He threatened to sue them and in turn he was dismissed from his employment.

**Required:**

(a) Raise and resolve issues involved.

**(4 marks)**

(b) What remedies are available to the workers?

**(16 marks)**

**(Total 20 marks)**

**SECTION C**

**Question 5**

In relation to the law of contract write short notes on the following:

- (a) Illegality of a contract.
- (b) Essentials of a valid contract.
- (c) Voidable contract.
- (d) Void contract.

**(20 marks)**

**Question 6**

Explain the effect of a contract made by an agent with a third party where the:

- (a) agent discloses the existence of his principal, but not his name.  
(10 marks)
- (b) existence of the principal is not disclosed.  
(10 marks)

**(Total 20 marks)**

**Question 7**

Enumerate and explain **five** rights and duties of partners among themselves.

**(20 marks)**