



FACULTY OF BUSINESS SCIENCES AND MANAGEMENT

DEPARTMENT OF ACCOUNTING

BACHELOR OF COMMERCE HONOURS DEGREE IN ACCOUNTING

COMPANY LAW II [BAC2206]

PART II SECOND SEMESTER EXAMINATION

SEPTEMBER 2024

DURATION: 3 HOURS

INSTRUCTIONS

1. Answer **ALL** questions under **SECTION A (Compulsory)** and choose any **THREE** questions under **SECTION B**.
2. **Section A** carries 40 marks whilst each question in **Section B** carries 20 marks.
3. Begin each question on a new page.
4. Please indicate the study mode (Conventional/Block) on the cover of your answer script.

INFORMATION

1. Marks per question are as indicated.
2. Questions may be attempted in any order.
3. Candidates are allowed to bring a copy of the **Companies and Other Business Entities Act [Chapter 24:31]**

SECTION A [40 MARKS]

MULTIPLE CHOICE [30 Marks]

For each of the following questions, just write the letter that corresponds to the answer you consider to be correct. Each question carries **2 marks**

QUESTION 1 [30 MARKS]

1.1 What document sums up the office bearers involved in the management of a company?

- A. Memorandum of Association.
- B. Board of Directors.
- C. Articles of Association.
- D. All of the above.

1.2 How are the first directors of the company appointed?

- A. Through resolution at an Annual General Meeting of a company.
- B. Through mentioning in the Articles of Association at registration of the company.
- C. By an Order of the court.
- D. All the above.

1.3 Which list includes constitutive documents of a company?

- A. Memorandum and Articles of Association.
- B. Certificate of Incorporation.
- C. Prospectus.
- D. None of the above.

1.4 Which statement is true of a company secretary?

- A. Legal adviser and chief administrator of the company.
- B. Director of the company.
- C. External auditor of a company.
- D. None of the above.

1.5 What disqualifies a candidate from appointment as company secretary?

- A. Foreigner not ordinarily resident in Zimbabwe and convicted of fraud.
- B. Registered and practitioner of law in Zimbabwe.
- C. Chartered Accountants and Chartered Secretaries.
- D. None of the above.

1.6 What is meant by a fiduciary duty?

- A. The power to put personal interests above those of the company.
- B. Honesty, utmost good faith and avoid conflict of interest with that of the company.
- C. Right allowing directors to make secret profit and conceal favourable business.
- D. All the above.

1.7. What enhances the independence of an Auditor?

- A. Internal appointment in a company.
- B. External appointment.
- C. Continuously engage the same auditor.
- D. None of the above.

1.8 Who appoints an auditor in a company?

- A. Audit Committee.
- B. Company Secretary.
- C. Non-controlling interests in a company.
- D. Board of Directors.

1.9 What is the qualification of an auditor?

- A. Any person may be appointed an auditor if one desires.
- B. Closed list such as accountants and public secretaries.
- C. Insolvent person who is unrehabilitated.
- D. None of the above.

1.10 When may an auditor, company secretary and director incur personal liability?

- A. Continuing to hold and exercise the functions of the office once becoming disqualified.
- B. Through vicarious liability.
- C. Satisfactory execution of assigned functions.
- D. All of the above.

1.11 What is a controlling interest in a company?

- A. Company Secretary.
- B. An Auditor.
- C. A shareholder with shares at least 50 % of the company.
- D. Shareholder with less than 50 % shareholding.

1.12 How may one ensure the protection of non-controlling interests in a company?

- A. Investigation and directions by the Registrar of Companies.
- B. Disposing off the rights held by non-controlling interests in the company.
- C. Prejudicial conduct of business by company directors and major shareholders.
- D. All of the Above.

1.13 What is corporate insolvency?

- A. Inability of the company to pay debts when they become due and payable.
- B. The ability of the company to settle its debts and liabilities on demand.
- C. Successful compromise with creditors and corporate rescue.

D. None of the above.

1.14 When is liquidation necessary?

- A. Failure of corporate rescue and inability to maintain good business.
- B. Company is under judicial management.
- C. All the creditors are either paid off or a compromise plan agreed.
- D. All the above.

1.15 What is the role of the court during the liquidation process?

- A. Managing the business of the company during liquidation.
- B. Approval and confirmation of the distribution plan by the liquidator.
- C. Partiality and subjectively choosing which creditors to be paid out of company assets.
- D. All of the above.

QUESTION 2 [10 MARKS]

- (a) Distinguish between executive and non-executive directors in a company. **[5 Marks]**
- (b) Differentiate alternate and *de facto* directors in company law. **[5 Marks]**

SECTION B

Answer any three questions

QUESTION 3 [20 MARKS]

Lavindra Auditors has been engaged as an external auditor of Chromadek Private Limited for ten (10) consecutive years. At the last Annual General Meeting, one of the directors, Mr Latifa objected to the proposal to continue engaging Lavindra Auditors as ‘external auditors’ and counter proposed the engagement of new auditors without prior dealings with Chromadek Private limited.

- (a) With reference to the above facts, discuss the circumstances that would sustain the counter proposal by Mr Latifa on the continued engagement of Lavindra Auditors. In your answer make use of references. **[10 Marks]**
- (b) In relation to the facts above, analyse the Board of Directors in particular its constituent and powers in company management. **[10 Marks]**

QUESTION 4 [20 MARKS]

(a) ‘The office of a director in a company carries onerous responsibility. Therefore, personal interests should not be allowed to overtake the business interests of the company.’

Justify this assertion in light of the role of directors under company law. **[10 Marks]**

(b) Even though obligations attach to directors in company law, equally, directors have rights that should be allowable in executing their functions.

In this light, evaluate the available rights to directors in a company. **[10 Marks]**

QUESTION 5 [20 MARKS]

Penchant Merchants (Pvt) Limited is a reputable company in the state of Zimbabwe. However, following the crackdown by the Financial Intelligence Unit of the Reserve Bank of Zimbabwe on errant businesses pegging prices for their products exclusively in United States Dollars to the exclusion of the Zimbabwe Gold (ZIG) currency, it was discovered that the company also fell short of this legal and government policy. Further, it was discovered that Penchant Merchants (Pvt) Limited did not employ a company secretary and many violations of the law were occurring in the company. Krimla seeks to become the company secretary of Penchant Merchants.

(a) How would the appointment of a company secretary benefit Penchant Merchants (Pvt) Limited from these facts? In your answer refer to legislation and case law. **[10 Marks]**

(b) What would make Krimla a suitable candidate for the position of company secretary at Penchant Merchants? Refer to legal authority in supporting your answer. **[10 Marks]**

QUESTION 6 [20 MARKS]

(a) The composition of Timsun Enterprises (Pvt) Limited has non-controlling interests that have suffered prejudice at the expense of controlling interests in the company. After repeated attempts to ensure the protection of their investment in the company, it has become apparent that the conduct of business is meant to squeeze non-controlling interests out of business.

Discuss your understanding of non-controlling interests in a company and how given the above facts, protection of non-controlling interests may be ensured?

[10 Marks]

(b) What is the test of insolvency? Make use of references. **[5 Marks]**

(c) ‘The office of a liquidator is central to the process of liquidation of a company.’

Justify the statement above in relation to the role of a liquidator. **[5 Marks]**

END OF EXAMINATION PAPER