

KASNEB

CPA PART II SECTION 3

CS PART II SECTION 3

CCP PART II SECTION 3

COMPANY LAW

WEDNESDAY: 25 May 2016.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Describe five grounds upon which a person might be disqualified from acting as a company's director. (10 marks)
- (b) Sea Bubble Limited was amalgamated with Telta Limited to form Seashore Limited. Some employees of Sea Bubble Limited refused to be transferred to Seashore Limited alleging that Seashore Limited was an unstable company. Sea Bubble Limited insisted that the employees must join the service of Seashore Limited or be retrenched.

Analyse the legal principles applicable in the above case and advise the employees of Sea Bubble Limited. (10 marks)
(Total: 20 marks)

QUESTION TWO

- (a) Discuss five ways through which a company might raise share capital from the public. (10 marks)
- (b) Describe five classifications of companies under the Companies Act. (10 marks)
(Total: 20 marks)

QUESTION THREE

- (a) (i) Explain the legal position of a company secretary. (6 marks)
- (ii) As the company secretary of Jombo Limited, you have been instructed to prepare an annual return for the company for purposes of filing.
Highlight four contents that you would include in the above annual return. (4 marks)
- (b) (i) Define the term "promoter". (2 marks)
- (ii) Describe four legal rights of an incorporated company against promoters who sold their property to the company at a profit while it was in the process of formation. (8 marks)
(Total: 20 marks)

QUESTION FOUR

- (a) Indicate five liabilities as contributories of present and past members of a company. (10 marks)
- (b) Flo Limited was incorporated in 2013 with a share capital of Sh.3 million divided into 30,000 shares of Sh.100 each. The main object of the company was to acquire and carry on the business of computer software and associated business which the company might consider conducive or auxiliary thereto. The company has gone into liquidation. Dijonese Majani, a former shareholder has made a claim against the company for the balance of the price of shares which he had sold to the company but which he was never fully paid for.

With reference to the above facts, explain the following:

- (i) The rule as laid down in Trevor Vs Whitworth. (4 marks)
- (ii) The exception to the rule in (b)(i) above. (6 marks)
(Total: 20 marks)

QUESTION FIVE

- (a) Basil Peters, a Canadian National intends to register a branch office in Nairobi. The head office will be based in Canada. The company once established will carry out Biometric research and does not intend to declare profits. All proceeds of trading will be used for further research. The company is proposed to be a small scale company with about ten specialist researchers. The company once registered, hopes to raise shillings sixty million over a two year period from a selected group of investors to meet the company's research needs.

Advise Basil Peters on the following:

- (i) The type of company that would be suitable to set up and why. (4 marks)
 - (ii) The documents required to accompany the application for registering the foreign company. (8 marks)
 - (b) Enumerate the rights granted to a company auditor to enable him perform his duties as an auditor. (8 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Discuss five legal consequences of incorporation. (10 marks)
 - (b) Describe the charges that could be created by a company registered under the Companies Act. (10 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Identify five persons who might apply to the court for the liquidation of a company. (5 marks)
 - (b) Describe five ways in which a liquidator could distribute the assets of a company in a compulsory winding up. (5 marks)
 - (c) With respect to company meetings:
 - (i) Outline six persons who are eligible to attend meetings. (6 marks)
 - (ii) Summarise four strict statutory requirements governing notices. (4 marks)
- (Total: 20 marks)**
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