

NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY

FACULTY OF COMMERCE

BACHELOR OF COMMERCE HONOURS DEGREE

COMPANY LAW I – CIN 2106

EXAMINATION – JANUARY 2013

Duration: 3 hours

Instructions to candidates

Answer **any four** questions

Question 1

- a) Discuss the concept of limited liability in company law. [10marks]
- b) What are the advantages under the Companies Act (**Chapter 24:03**) of operating a business through a private company instead of a public one? [10marks]
- c) Explain the rationale behind the regulatory requirements of a company's name.
[5marks]

Total 25 marks

Question 2

a) "The company is at law a different person altogether from the subscribers...the company is not in law the agent of the subscribers or trustee for them. Nor are the subscribers, as members liable, in any shape or form, except to the extent and in the manner provided by the Act" per Lord McNaughten at p.51 in **Salomon v Salomon & Co Ltd [1897] AC 22 (HL)**

Assess the validity of the above assertion with reference to decided cases and the Companies Act (**Chapter 24:03**) [10 marks]

- b) Discuss the concept of piercing the corporate veil. [15 marks]

Total 25 marks

Question 3

a) Write critical notes on the following contents of the Memorandum of Association.

i) Liability clause. [4 marks]

ii) Shareholding clause. [4 marks]

iii) Association clause. [4 marks]

iv) Share Capital clause. [4 marks]

b) With reference to decided case law write brief notes on the court's approach to the interpretation of the Articles of Association of a company. [9 marks]

Total 25 marks

Question 4

a) Sithabile is a company secretary for Delta Woods (Pvt) Ltd a company duly registered under the laws of Zimbabwe. The company conducts the business of transportation of timber from Zimbabwe to South Africa. It is also one of its business activities according to its memorandum and articles of association to process the timber for furniture in Zimbabwe. In one of the business transactions, Sithabile entered into a business contract on behalf of the company with one Mr.Dube for the processing of his timber which he intended to use in his carpentry business. Pursuant to the contract,Mr Dube supplied 20 tons of timber to Delta Woods (Pvt) Ltd for processing which was worth US\$20 000 .

According to one of the provisions of the articles of association of Delta Woods (Pvt) Ltd, any business transaction that exceeds the value of US\$50 000 was supposed to be undertaken after authorization by the managing director himself. However in this particular transaction, Mr. Dlodlo, the managing director of Delta Woods (Pvt) Ltd had gone on a two day workshop for directors to Harare and Sithabile had taken it upon herself to authorize the processing of Mr. Dube's 20 tons of timber for which work the latter had paid US\$70 000.

Three days after the supplying of timber to the company, Mr.Dube received a call from Delta Woods (Pvt) Ltd informing him that his timber had been stolen whilst in the lorry parked outside the company premises. HoweverMr.Dube could take none of what the company officials were saying to which he objected by claiming the value of his timber coupled with a full refund of the money he had paid. In opposition the managing director, Mr. Dlodlo, who had since returned from the workshop, argued that, the company was not liable for anything against Mr. Dube. His reasons for denial of liability were, amongst many others, that the company was not bound by the contract entered into by Sithabile because she had exceeded her mandate in terms of the company's articles. The director further pointed out that Mr. Dube should have known that his dealings with Sithabile were invalid by mere scrutiny of the company's records which were readily available for everyone to see at the company registry. Alternatively, the director argued that, the company did not provide for storage services in its objects clause so as to be held liable for goods stolen whilst loaded in a lorry outside the premises of the company for that matter.

i) With reference to the Companies Act of Zimbabwe, explain whether Delta Woods (Pvt) Ltd is bound by the transaction entered into by Sithabile.[7 marks]

ii) Is the company likely to succeed in its line of defence against Mr. Dube? Explain.
[8 marks]

b) Explain the ways through which company membership can be terminated?
[10 marks]

Total 25 marks

Question 5

a) Under what circumstances can a notice convening a meeting be regarded as invalid under the Companies Act (**Chapter 24:03**)? [5marks]

b) Explain the significance of an agenda to a meeting? [5 marks]

c) What is a quorum and how many people can validly form it under the Companies Act

(Chapter 24:03)? [5 marks]

d) What is the difference, if any, between a general meeting and an annual general meeting? [5 marks]

e) Discuss the binding nature of a special resolution.[5 marks]

Total 25 marks

Question 6

a) Discuss the duties that a director owe to a company in terms of the common law and the Companies Act (**Chapter 24:03**)[15 marks]

b) Explain the various share capital maintenance rules in terms of the Companies Act (**Chapter 24:03**). [10 marks]

Total 25 marks

END OF EXAMINATION