

Fundamentals Level – Skills Module

Corporate and Business Law (Zimbabwe)

Tuesday 4 December 2007

Time allowed

Reading and planning: 15 minutes

Writing: 3 hours

ALL TEN questions are compulsory and MUST be attempted.

Do NOT open this paper until instructed by the supervisor.

During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.

This question paper must not be removed from the examination hall.

The Association of Chartered Certified Accountants



Paper F4 (ZWE)

ALL TEN questions are compulsory and MUST be attempted

- 1 In relation to the legal system of Zimbabwe:**
- (a) Explain the meaning of judicial precedent and how it operates; (5 marks)
 - (b) Outline the major advantages and disadvantages of judicial precedent. (5 marks)
- (10 marks)**
- 2 In relation to contract law, explain the approach of the courts when granting the remedy of specific performance for breach of contract.**
- (10 marks)**
- 3 In relation to company law, explain the major rules that are meant to preserve the share capital structure of the company.**
- (10 marks)**
- 4 In relation to business organisations, explain the main legal features of the following:**
- (a) Sole trader; (3 marks)
 - (b) Partnership; and (3 marks)
 - (c) Private business corporation. (4 marks)
- (10 marks)**
- 5 In relation to the law of delict:**
- (a) Explain the concept of negligence; (5 marks)
 - (b) Define the concept of *volenti non fit injuria* as a major defence to an action in negligence. (5 marks)
- (10 marks)**
- 6 In relation to partnership law:**
- (a) Discuss the liability of the partners for partnership debts; (5 marks)
 - (b) Discuss how a partnership comes to an end. (5 marks)
- (10 marks)**
- 7 In relation to the law of agency, explain the duties of the agent towards the principal.**
- (10 marks)**

- 8 (a) Nhidza and Mujere are the sole shareholders and directors of Clearwaters (Pvt) Ltd, a company duly registered and trading in terms of the laws of Zimbabwe. The company's object clause empowers it to construct swimming pools and to sell equipment, chemicals and other consumables used in the maintenance of swimming pools. The two entered into a contract with Diamond Bank Ltd involving the granting of a loan facility. As a result of the said contract Diamond Bank Ltd brought legal proceedings against them in their individual capacities for failure to service the loan. Nhidza and Mujere wish to know whether they are personally liable for the debts incurred by Clearwaters (Pvt) Ltd to the bank.

Required:

In relation to company law, advise the two directors on the issue of personal liability towards Diamond Bank Ltd. (5 marks)

- (b) Simoni is a shareholder in a newly registered public company, Ndarama Ltd. The company is a mining concern specialising in the excavation and mining of precious minerals such as gold and diamonds. Initially the company started as a private company and converted into a public company in 2002 when it launched a successful public share offer. Simoni bought 3,000 shares then and has since bought another 2,000 shares through a rights issue that was launched by the company in 2005. Since becoming a public company in 2002 it has always made profits and the shares have consistently performed well on the Zimbabwe Stock Exchange. However, the directors have consistently refused to declare dividends. The reason the directors have given is that the company wants to buy more advanced mining equipment and computers. Recently, the company opened a new mine in Marange communal lands, where vast diamond deposits have been discovered and its share price on the local bourse has surged even further. Simoni feels a sense of grievance due to the fact that in spite of the handsome after tax profits the company has been making, no dividends have been declared. At the same time Simoni does not wish to dispose of his shares.

Required:

Advise Simoni as to whether or not he can sue the company for wilful refusal to declare dividends.

(5 marks)

(10 marks)

- 9 Irene Moyo, who was employed as a receptionist by Mhondoro Stationers (Pvt) Ltd was suspended and subsequently dismissed on 1 November 2007. The reason for her dismissal was alleged disobedience to a lawful order by the employer. This arose from the fact that on 31 October 2007, she developed a serious headache while at work and wanted to see her doctor immediately. When she sought permission from her immediate supervisor to see the doctor, this was turned down and fearing the worst for her health she decided to visit her personal doctor nonetheless. Upon returning to work the following day she found a letter of dismissal from employment waiting for her.

Required:

In relation to employment law, discuss the nature of possible legal remedies available to Irene Moyo.

(10 marks)

- 10** Vavaki Vahombe (Pvt) Ltd is a building and construction company operating from a number of sites in Harare. At one such site in the suburb of Hatcliffe there is a signposted warning in bold letters at the front gate of a very dilapidated two storey house where extensive renovations are taking place. The warning reads 'This building site is private property, no unauthorised persons will be allowed entry, liability will not be accepted by the builders or owners for any injuries sustained by trespassers ...'

One wet afternoon, Aimless Murombo decided to seek shelter from the gushing winds and rain in one of the rooms on the ground floor of the building after having sneaked in unnoticed. Due to the poor state of the building some bricks fell on him and he sustained severe injuries all over the body. He comes to you for advice as to whether or not the builders are liable for the personal injuries he sustained.

Required:

Advise Aimless Murombo on the issue of the liability of Vavaki Vahombe (Pvt) Ltd for his personal injuries.

(10 marks)

End of Question Paper