

Fundamentals Level – Skills Module

# Corporate and Business Law (Zimbabwe)

Tuesday 3 June 2008

**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)

The ACCA logo consists of the letters 'ACCA' in a bold, white, sans-serif font, centered within a solid black rectangular background.

**ALL TEN questions are compulsory and MUST be attempted**

**1** Part Three of the Zimbabwe Constitution 'Declaration of Rights' is an expression of fundamental human rights which Zimbabwean citizens are entitled to.

**Required**

**List five of the fundamental human rights and explain the way the law has operated in practice to protect those rights.**

**(10 marks)**

**2** In relation to the law of contract, explain the general rules relating to the award of damages.

**(10 marks)**

**3** In relation to the law of delict, explain the wrong of passing off and the major remedies available to the plaintiff in a passing off action.

**(10 marks)**

**4** In relation to company law state the major differences between executive and non-executive directors.

**(10 marks)**

**5** In relation to employment law:

**(a)** Explain the major duties of the employee. **(5 marks)**

**(b)** Explain five ways in which a contract of employment may be terminated. **(5 marks)**

**(10 marks)**

**6** In relation to company law:

**(a)** Explain the major functions of a company secretary. **(5 marks)**

**(b)** Distinguish between ordinary, special and written resolutions. **(5 marks)**

**(10 marks)**

**7** Discuss the concept of corporate governance in so far as it applies to Zimbabwe.

**(10 marks)**

- 8 Ngoni is a businessman who specialises in selling locally made leather jackets. Ngoni offers to sell 150 such jackets to Themba, a Cross border trader, at \$1,000,000·00 per jacket, subject to him accepting the offer in writing. Themba tells him that he accepts to buy at \$750,000·00 per jacket and offers to buy at that price. In the meantime Themba talks to Brinah his friend and advises her of Ngoni's offer made to him. She decides to accept the offer herself. Brinah writes to Ngoni accepting to buy the jackets at the price stipulated by Ngoni.

Ngoni is not interested in selling to Brinah and rejects her 'acceptance'. Upon learning this, Themba decides that he now wants to buy the jackets himself at the price previously stipulated by Ngoni and now **verbally** accepts the offer.

**Required:**

**In relation to the law of contract, advise as to whether Ngoni is bound by any of the 'acceptances' communicated to him.**

**(10 marks)**

- 9 Tunga and Tymon are in an ordinary partnership. Tunga approaches Kudzai and acting in his capacity as a partner borrows \$20 billion from him for partnership purposes. Neither Tunga nor the partnership subsequently return the loan when it is due.

Kudzai institutes proceedings against the partnership but Tymon opposes the action on the basis that what Tunga did was not binding on him and the partnership. Notwithstanding his opposition judgment is granted against the partnership.

In the meantime Kudzai tries to execute against the partnership property but he only recovers \$10 billion after which the partnership property is exhausted. Kudzai who is not aware of any properties personally held by Tunga decides to proceed against Tymon's vast properties, which are known to him.

**Required:**

**In relation to the law of partnerships, advise on whether:**

- (a) it was proper for a judgment to be granted against the partnership; and,
- (b) it is appropriate for Kudzai to proceed against Tymon's personal properties.

**(10 marks)**

**10** Denis and Thomas Tembo are the only shareholders and directors of Kufumaishungu (Pvt) Ltd a company duly registered and operating in terms of the laws of Zimbabwe. The company manufactures protective clothing which is used by ordinary cyclists and traffic controllers. The company was incorporated in 2005 and the latest audit statement shows that the liabilities of the company exceed its assets and that the company is unable to pay debts owed to various suppliers in the sum of \$10 billion dollars. About a month ago a cheque for \$2 million dollars in favour of one such creditor Shoko Enterprises (Pvt) Ltd was returned to the creditors marked 'Refer to Drawer'.

Added to this, the company's major asset, a factory in the industrial sites of Harare, was burnt down to ashes in a fire caused by an electrical fault. Due to the financial difficulties the company was facing, the factory was not insured and all the workers have been sent home.

Shoko Enterprises would like to institute an action for the compulsory winding up of the company.

**Required:**

**Advise Shoko Enterprises of its chances of success.**

**(10 marks)**

**End of Question Paper**