

COMPANY LAW

Overall Feedback

The overall performance of the students was average. Major shortcomings observed during the marking of papers are narrated below for the reference of the students. By removing these shortcomings, they can enhance their examination skills and improve their results.

- Many students wrote too much details without concentrating on the actual requirements. Unnecessary lengthy reply results in waste of time. Students need to improve this habit which will result in better utilization of the given time and more concentration on the questions which need detailed reply.
- Question numbers and their part numbers were not correctly mentioned and in some cases students left this job for the examiner.
- Writing in many cases was not legible.

Question-wise Comments

Q.1 It was an easy question. Most of the students secured good marks in part (b) and (c) but in part (a) the performance was not good as many students incorrectly mentioned that the company would be liable for pre-incorporation expenses. The company is not liable for contracts entered into by the promoter mainly because at that point in time, the company did not exist. However, the directors may pay all such expenses if allowed by the Articles of Association.

Those who could not perform well in parts (b) and (c) also, should remember that the provisions of Companies Ordinance 1984 will prevail whenever these are in conflict with the Memorandum or Articles of Association.

Q.2 (a) This was a simple question on provisions relating to collection of provident fund contribution and where it may be deposited, which has been explained in Section 227 of the Companies Ordinance 1984. However, many students filled pages by writing whatever they knew about provident fund.

(b) Though parts (a) and (b) of the question were interlinked, it was surprising that even most of those students who answered part (a) well were not able to state clearly that Company's action to obtain loan from the provident fund was in contravention of the law.

Q.3 (a) It was an easy question and well attempted as majority of the examinees were able to state that resolutions do not become invalid on account of any defect subsequently discovered in the appointment of a director.

(b) The performance of the candidates in this paper was below average. Examinees seemed to be confused whether amendment was required in the Memorandum or in the Articles of Association or in both of them.

- (c) Part (i) and (ii) were well answered by large number of examinees, in accordance with Section 187 (c) and 199 respectively of the Companies Ordinance, 1984. However, in part (iii) majority of the students were unable to explain that the terms and condition to be offered to a chief executive shall be determined either by the directors or by the company in general meeting, depending upon the provisions contained in the Articles of Association.
- (d) The students were expected to answer this part in accordance with section 59 of the Companies Ordinance, 1984. Most of them relied on guess work and wrote statements such as “directors shall not be liable due to honest mistake of fact” or “directors shall not be liable if the misstatement is immaterial” etc.
- Q.4 (a) Majority of the students correctly stated that subscription money should be deposited in a separate bank account in a scheduled bank and that the same can be utilized after receiving the Certificates of Commencement of business. However, many others did not understand the question and wrote pages on the process of allotment and subscription.
- (b) It was a good question. Most of the students did understand the main issue i.e. Shaban (Pvt) Limited couldn't have raised money from the public without converting itself into a public company. All such students were able to point out at least the main changes that are required to be incorporated in the Memorandum & Articles of Association. Those students who could not comprehend the situation went on to concentrate on the amount of capital and gave incorrect answers.
- (c) This question was poorly answered by most of the students. Section 108 read with section 28 of the Companies Ordinance, 1984, explains the provisions regarding variations in the rights of a class of shareholders.
- (d) The performance of the examinees was average. The question should have been answered with reference to Sections 96 to 101 of Companies Ordinance, 1984.
- Q.5 (a) The performance was generally bad. The following mistakes and omissions were commonly noticed in the answers:
- Many examinees were unaware that if directors fail to call EOGM within 21 days, such shareholders may themselves call the meeting and all decisions taken in such a meeting shall be binding on the company.
 - It was stated that members holding at least 20% (instead of 10%) voting rights can call an EOGM.
- (b) Many students who had read section 157 of the Companies Ordinance, 1984 carefully, secured full marks.

- (c) Only a few examinees were aware about the provisions regarding adjournment of the statutory meeting. Many students incorrectly explained the provisions of adjournment of extra ordinary general meetings.
- Q.6 (a) It was one of the lowest scoring questions. Generally the students were not aware that in the given situation the directors have the options to prepare 6 monthly or 18 monthly accounts. However, if they decide to prepare accounts for 18 months, they will have to get the approval of Registrar also. Most students were of the view that approval of SECP will be required in either case.
- (b) The question was answered well and in accordance with the rules specified in Section 245 of the Companies Ordinance, 1984.
- (c) Most of the examinees answered this question in a very ordinary manner. They could only explain that two directors can sign the financial statements if the Chief Executive is not available. They failed to emphasize that the above alternative is allowed only if the Chief Executive is not in Pakistan. Moreover, very few could state that if Chief Executive is not signing, a statement giving reason for such non-compliance is also required to be signed by the above directors and attached with the financial statements.
- Q.7 (a) Most of the candidates were familiar with the term ‘satisfaction of charges’ and explained it correctly. However, very few were able to correctly explain the term ‘modification of charges’ which can be explained as a change in mortgage or charge due to change in amount of mortgages, rates of interest, particulars of property, repayment period or change in any other terms and conditions.
- (b) This was the best answered question as students showed their clear understanding of section 14 of the Companies Ordinance, 1984.
- Q.8 (a) This question was probably attempted in haste. Many examinees narrated the requirements of “annual accounts” instead of “annual return”.
- (b) The performance in this question was mixed. The examinees were expected to draw their conclusions based on the following rules:
- A director should be a member of the company.
 - Maximum term of office for a director is three years.
 - The requirement regarding minimum number of directors in case of a non-listed company is three unless the Articles of Association require a higher number of directors.
- Many students gave their conclusions without proper reasoning. Very few of them were able to mention that the minimum number of directors as provided by the Articles of Association may be more than the minimum specified by the Companies Ordinance, 1984.