

Fundamentals Level – Skills Module

Corporate and Business Law (Botswana)

Monday 18 June 2012



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

The Botswana Institute of Chartered Accountants



Paper F4 (BWA)

ALL TEN questions are compulsory and MUST be attempted

- 1 In relation to the Botswana legal system, discuss the protection of human rights under Botswana's Constitution.**

(10 marks)

- 2 In relation to the law of contract, explain and distinguish between:**

 - (a) an offer and** (6 marks)
 - (b) an invitation to treat.** (4 marks)

(10 marks)

- 3 In relation to partnership law:**

 - (a) describe the two types of partnerships under Roman-Dutch law;** (4 marks)
 - (b) explain the authority of partners in relation to partnership activities.** (6 marks)

(10 marks)

- 4 In relation to company law:**

 - (a) describe the procedure for registering a private company;** (6 marks)
 - (b) explain how the company's constitution can be altered.** (4 marks)

(10 marks)

- 5 In relation to company law:**

 - (a) discuss the rules governing the maintenance of capital;** (6 marks)
 - (b) examine the effect of issuing shares at a discount.** (4 marks)

(10 marks)

- 6 In relation to company law, explain and distinguish between:**

 - (a) annual general meetings and special general meetings;** (6 marks)
 - (b) ordinary resolutions and special resolutions.** (4 marks)

(10 marks)

- 7 In relation to the law of corporate governance:**

 - (a) define corporate governance;** (3 marks)
 - (b) identify and discuss various extra-legal codes of corporate governance recognised in Botswana.** (7 marks)

(10 marks)

- 8 Tshepo & Ross is an audit company engaged by Khumo Bank. Khumo Bank has loaned P50 million to a large property development concern called Fig Mountain Estates. The loan was to be secured by a Fig Mountain Estate's property called Thabo Office Park valued at P60 million. Tshepo & Ross learnt from a report prepared by a junior auditor, Mary, that the value of Thabo Office Park may be considerably lower than P60 million because the buildings are defective and some of the buildings have been condemned as being unfit for occupation. Tshepo & Ross made no further inquiries but signed off Khumo Bank's financial statements.

Six months later, Khumo Bank foreclosed the loan taken by Fig Mountain Estates and sought to sell Thabo Office Park to recover the amount lent. Thabo Office Park sold for P10 million, failing to attract a higher price because the buildings are defective. Khumo Bank learns of the report prepared by Mary. Khumo Bank would like to know if they have any remedy against Tshepo & Ross for the P40 million loss Khumo Bank has suffered.

Required:

Advise Khumo Bank.

(10 marks)

- 9 Maipelo runs a clothing and textile manufacturing firm, which employs 20 seamstresses. The company is going through financial difficulties. Maipelo wrote a memo to her employees to inform them of her intention to reduce the workforce. The relevant part of the memo reads as follows:

'I intend to reduce the size of the workforce as the firm is operating at a loss. I will terminate contracts of employment of 15 employees. The basis for termination shall be work performance. Those who have consistently failed to meet targets should look for work elsewhere. The decision is the sole prerogative of management and it is final. The redundancies are immediate.'

Kgotso works as a seamstress for Maipelo. She is Maipelo's longest serving employee. She is one of 15 employees who have just received the redundancy memo. She wishes to challenge the redundancy and has come to you for advice.

Required:

Advise Kgotso on her chances of successfully challenging the redundancy.

(10 marks)

- 10 (a)** ODI Investments (Pty) Ltd is a leather tanning company trading in Gaborone. The company is in need of new trading premises. The board authorises the board chairman, Oratile, to identify and purchase a building from which the company can conduct its business activities. Oratile identified a suitable building in Gaborone West Industrial and purchased it from Japheth for P200,000. He then offered the building to the company for P400,000. The company, pleased with the location of the new premises, purchased the building from Oratile.

After conclusion of the sale, the board discovered that Oratile had purchased the plot from Japheth for P200,000 soon after he was requested to find premises for the company. At no time did Oratile declare his profit from the transaction to the company's board of directors. The board suspects Oratile's conduct may be illegal.

Required:

Advise the board if Oratile's conduct is legally justifiable.

(7 marks)

- (b)** Oratile is also a 51% shareholder in ODI Investments (Pty) Ltd. At a special general meeting, he used his shares to pass a resolution ratifying the sale of the building to the company for P400,000.

Required:

Explain the legal effect of the resolution.

(3 marks)

(10 marks)

End of Question Paper