

Fundamentals Level – Skills Module

Corporate and Business Law (Botswana)

Monday 9 December 2013



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:**
 - (a) explain what is meant by case law; and (5 marks)
 - (b) explain the doctrine of judicial precedent. (5 marks)

(10 marks)

- 2 In relation to contract law:**
 - (a) define the various contractual terms; and (5 marks)
 - (b) explain the effect of exclusion clauses and discuss circumstances that render exclusion clauses unenforceable. (5 marks)

(10 marks)

- 3 In relation to the law of agency:**
 - (a) define the role of the agent and give examples of such relationships; (5 marks)
 - (b) define the authority of the agent. (5 marks)

(10 marks)

- 4 In relation to partnership law, explain the way in which partnerships can be brought to an end.**

(10 marks)

- 5 In relation to company law, describe the difference between the various classes of shares.**

(10 marks)

- 6 In relation to company law, discuss the appointment procedure relating to, and the duties and powers of, a company secretary.**

(10 marks)

- 7 In relation to company law, explain what is meant by 'insider trading' and how the law seeks to control it.**

(10 marks)

- 8 (a) Wiseacre Construction (Pty) Limited (Wiseacre) has been in the building industry in Botswana for ten years. Initially, the business was breaking even and occasionally making a profit. In recent years, however, the business has run into difficulties. Wiseacre had won a government tender to put up 100 houses in Palapye. In spite of being paid a mobilisation fee of P10 million, Wiseacre has been unable to begin construction works in Palapye. Most of the P10 million was used to pay off debts, substantial portions of which remain unpaid. Tirong Labour Brokers have a judgement against Wiseacre for P50,000. Wiseacre also owes its building materials supplier, Betabuild, P3 million.

Wiseacre has a P800,000 bank loan with Housing Finance Bank which it has not paid for 10 months. Betabuild and Housing Finance Bank, the creditors of Wiseacre, seek your advice as to whether Wiseacre can be the subject of a compulsory liquidation.

Required:

In relation to company law, advise the creditors, Betabuild and Housing Finance Bank. (5 marks)

- (b) The liquidation process in respect of Wiseacre has now commenced. The liquidator receives two lawsuits filed against Wiseacre by creditors Betabuild and Housing Finance Bank. Tirong Labour Brokers attach property belonging to Wiseacre with a view to selling it to recover their P50,000. Several shareholders of Wiseacre have sold their shares. The liquidator has asked you to advise him on the propriety of the actions of the creditors and shareholders.

Required:

In relation to company law, advise the liquidator. (5 marks)

(10 marks)

- 9 Nikiwe is working for Workspace as a supervisor in a call centre. She has held this post for three years. Nikiwe has 20 support officers whom she supervises. Workspace offers Nikiwe a new post in the Selebi Phikwe branch as a senior support officer. This post is inferior to Nikiwe's current post. It means that she will no longer supervise employees but will instead be working at the same level as the staff she currently supervises. Her salary has also been reduced and readjusted to P1,500 less than her current monthly salary. When Nikiwe requests reasons for the changes, she is informed that the company is restructuring and that she can 'take or leave the job'. Workspace wrote a letter to Nikiwe urging her to accept the new terms and describing Nikiwe as uncooperative and stubborn. Nikiwe then resigned in frustration. Nikiwe approaches you for advice.

Required:

In relation to employment law, advise Nikiwe whether she has any recourse against her employer, Workspace.

(10 marks)

- 10** Katlego Associates & Co is a firm of auditors. They are appointed to audit HighWater Investments (Pty) Limited (HighWater). Zibani, a partner in Katlego Associates & Co, happens to be a shareholder in a subsidiary company owned by HighWater. During the audit, financial irregularities in the books of HighWater were identified. Certain invoices prepared by HighWater's accountants had been adjusted to reflect better sales than were actually achieved. The auditors inquired about these discrepancies and accepted the explanation of the HighWater managing director without any further investigations. The auditors proceeded to certify HighWater's financial statements as showing a true and fair view.

HighWater paid out a dividend to shareholders on the strength of the financial statements. It has now emerged that almost all invoices raised by HighWater were fraudulently adjusted. HighWater has gone into liquidation and the liquidator is considering instituting action against Katlego Associates & Co.

Required:

In relation to company law, advise HighWater Investments (Pty) Limited's shareholders.

(10 marks)

End of Question Paper