
Answers

Section B

- 1 (a) As a road user, Ben owes a duty of care to other people using roads, whether drivers or pedestrians. The fact that Ben is a novice driver does not affect his duty or reduce the standard of care. Therefore Amy has a cause of action in negligence against Ben.
- (b) The fact that Amy suffered from a more serious injury as a result of a pre-existing physical condition will not affect Ben's liability, provided some harm was foreseeable to establish breach of duty. In other words, the injury which triggers off Amy's pre-existing physical condition must be foreseeable. This is the application of the 'thin skull' or 'egg-shell skull' rule.
- 2 (a) Omiros is a general partner, therefore his liability for the partnership's debts is unlimited.
- Maria and Niovi are limited partners, therefore their liability for the partnership's debts is limited to the amount contributed to the partnership. However, Niovi takes part in the management and hence she loses her limited status during the time she is acting as a general partner. In addition, given that the partnership was not registered with the Registrar of Partnerships as a limited liability partnership, it is considered to be a general partnership and hence Maria will also be deemed to have unlimited liability for the partnership's debts.
- (b) If the partnership had been duly registered, then Maria's liability for the partnership's debts and obligations would be limited to the amount she contributed to the partnership. However, this would not affect the liability of Niovi, who loses her limited status by reason of her involvement with management, irrespective of whether the partnership itself is deemed to be limited or general.
- 3 (a) ABC Ltd may, if so authorised by its articles of association, cancel part of its authorised share capital, by cancellation of shares which at the date of the passing of the resolution in that respect have not been taken or agreed to be taken by any person (s.60(1)(e) Companies Law Cap 113). This is strictly speaking a diminution of share capital, rather than a reduction. In accordance with Table A, an ordinary resolution suffices. Notice of the diminution must be sent to the Registrar of Companies within one month (s.61(1)(f) Companies Law Cap 113).
- (b) Capital unrepresented by available assets is one of the reasons which the Companies Law Cap 113 permits for proceeding with reduction of capital. A special resolution is required as well as a court order confirming the reduction. The minute stating the capital structure of the company as changed together with a copy of the order is delivered to the Registrar of Companies, who issues a certificate as conclusive evidence that all the requirements of Cap 113 have been complied with in relation with the reduction.
- 4 (a) Given that DEC Ltd has adopted Table A as its articles of association, all decisions of the board of directors require majority vote. Moreover, the managing director may exercise those powers which have been delegated to her by the board. Given that Dina and Evan disagree with Chloe's proposal for DEC Ltd to enter into a contract with Fay, the relevant transaction is not approved. In other words, Chloe does not have authorisation to enter into such a contract on behalf of DEC Ltd. Nevertheless, Chloe acts as the managing director of DEC Ltd and hence may be deemed to have implied authority to bind the company towards third parties, such as Fay. Therefore, unless Fay has actual knowledge of Chloe's lack of actual authority, DEC Ltd may well be bound in contract against Fay.
- (b) Chloe has acted beyond her actual authority and hence is liable to DEC Ltd for any loss or damage as a result of entering into a contract with Fay.
- 5 (a) Pursuant to the Insider Dealing and Market Manipulation (Market Abuse) Law 116(I)/2005, a person who possesses inside information which has not been published is prohibited from, *inter alia*, disclosing such information to any other person unless such disclosure is made in the normal course of the exercise of their employment, profession or duties, and from recommending or inducing another person, on the basis of inside information, to acquire or dispose of financial instruments to which that information relates.
- The above prohibition applies to George as he possesses inside information by virtue of his acting as a director of Bohema plc.
- Even if George has not induced his wife to acquire shares in Bohema plc, he has disclosed inside information to her and such disclosure was not made in the normal course of the exercise of his profession or duties.
- (b) George may be able to raise one of the general defences which are provided by the law, e.g. he did not expect that as a result of receiving that information, his wife would deal with financial instruments relating to it.

Section B

- 1** **(a)** 1 mark for each relevant point
 (b) 1 mark for each relevant point

- 2** 1 mark for each correct answer and 3 marks for correct explanation

- 3** **(a)** 1 mark for each relevant point
 (b) 1 mark for each relevant point

- 4** **(a)** 1 mark for each relevant point
 (b) 2 marks for correct answer

- 5** **(a)** 1 mark for each relevant point
 (b) 2 marks for correct answer