



<u>FACULTY</u>	: Law
<u>DEPARTMENT</u>	: Mercantile Law
<u>CAMPUS</u>	: APK
<u>MODULE</u>	: KPR0011/BEL41A0 BUSINESS ENTERPRISES LAW
<u>SEMESTER</u>	: First
<u>EXAM</u>	: January 2020 (Special examination)

ASSESSOR(S) : Prof KE van der Linde

MODERATOR :

DURATION : 2 HOURS **MARKS** : [70]

NUMBER OF PAGES: [3 PAGES]

INSTRUCTIONS:

1. Answer all questions in the **SCRIPT** provided.
2. Write legibly.
3. Number your answers carefully.
4. Leave a line open between each answer (for example, between questions 1 and 2).

QUESTION 1**[10]**

The memorandum of incorporation of Pink (Pty) Ltd provides that the company does not have the capacity to enter into transactions with foreign companies. The board of directors of Pink (Pty) Ltd concludes a contract in terms of which the company purchases goods from a Orange NV, a foreign company incorporated in the Netherlands.

Explain whether the contract is binding on Pink (Pty) Ltd and, if so, what rights a shareholder will have in this regard.

QUESTION 2**[5]**

Bella is the only shareholder and director of Green (Pty) Ltd and also holds 70% of the shares in Blue (Pty) Ltd. Neither of the two companies hold any shares in the other. Explain the relationship between these two companies and briefly refer to two consequences of this relationship.

QUESTION 3**[10]**

Gold (Pty) Ltd has issued 100 voting ordinary shares (Class A). The board of directors has been approached by Lerato, a shareholder of 4 Class A shares in Gold (Pty) Ltd. Lerato wants to dispose of his shares in Gold (Pty) Ltd but has been unable to find a purchaser. The board of Gold (Pty) Ltd is willing to allow Gold (Pty) Ltd to repurchase the shares from Lerato.

- (a) Explain the requirements for and implications of the proposed transaction. (5)
- (b) Explain whether, instead of the above transaction, it will be possible for Gold (Pty) Ltd's only subsidiary, Silver (Pty) Ltd, to purchase the shares from Lerato and if so, how the requirements in (a) above would differ. Silver (Pty) Ltd currently holds 7 of the 100 class A shares in Gold Ltd. (5)

QUESTION 4**[10]**

Ntswaki has agreed to sell her shares in Yellow (Pty) Ltd to Xanele. Xanele will pay for the shares with money she is borrowing from Ready Bank Ltd. Yellow (Pty) Ltd is willing to bind itself as surety for Xanele's indebtedness to Ready Bank Ltd. Advise Yellow (Pty) Ltd of any Companies Act requirements for the suretyship.

QUESTION 5**[10]**

Purple Ltd is listed on the JSE Ltd. It wants to expand its business by acquiring control of Violet Ltd, one of its competitors. Purple Ltd approaches the shareholders of Violet Ltd with an offer to exchange their Violet Ltd shares for new listed shares to be issued in Purple Ltd. Explain whether Purple Ltd is making an offer to the public and, if so, whether it needs to issue a prospectus.

QUESTION 6**[10]**

Beige Ltd's business is to manufacture single use plastic drinking cups. Lisa is a non-executive director of Beige Ltd. Lisa's husband Tom works for Turquoise (Pty) Ltd which manufactures various paper products. Tom holds some shares in Turquoise (Pty) Ltd. Lisa receives notice of a board meeting and notices that the agenda includes an item: "Possible expansion of business - invitation to tender for the supply of paper drinking cups". It appears that one of Beige Ltd's large customers has invited Beige Ltd to tender for the supply of paper drinking cups, given the increasing unpopularity of single use plastics. Turquoise (Pty) Ltd has apparently also been invited to submit a tender.

Advise Lisa on the correct way of handling this situation in order to avoid breaching her duties as director.

QUESTION 7**[10]**

The boards of Red Ltd and Yellow Ltd have agreed that the two companies will transfer all of their assets and liabilities to a new company that will be called Orange Ltd. Both Red Ltd and Yellow Ltd will be deregistered and their shareholders will receive shares in Orange Ltd. Explain the nature of this transaction and the requirements that must be satisfied.

QUESTION 8**[5]**

ABCU is a registered trade union representing certain employees of Lilac Ltd. Lilac Ltd has recently incurred considerable losses due to fraud and embezzlement by Fritz, one of its former directors who resigned when the irregularities were discovered. Lilac Ltd is not taking any action against Fritz, but ABCU feels that he must be held accountable for the harm inflicted on Lilac Ltd. Explain on what basis ABCU can institute action against Fritz and briefly outline the steps it should follow.

TOTAL**[70]**