



PROGRAM : NATIONAL DIPLOMA IN CREDIT MANAGEMENT
SUBJECT : BUSINESS LAW 2A
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TOTAL MARKS : 100

EXAMINERS : MR SS NKOSI Sanso Number
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MODERATOR : MRS CHAUHAN File Number

NUMBER OF PAGES : 8 PAGES

REQUIREMENTS:

UJ EXAMINATION ANSWER BOOK

INSTRUCTIONS TO CANDIDATES:

1. Use the scanner sheet provided to answer Section A.
 2. Use the UJ Examination Book for Section B, and number your answers correctly.
 3. DO NOT use Tip-ex.
 4. DO NOT use sms-speak
 5. Draw a line to separate answers to different questions.
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SECTION A

1. Every form of corporate reform seeks to address this question: "For whose benefit does a company exist?" And, in trying to answering it, the following models/approaches are considered:
 - a) the traditional shareholder-oriented model
 - b) the enlightened shareholder value approach
 - c) the pluralist approach
 - d) all of the above
 - e) none of the above.

2. A company is related to another company if:
 - a) either company directly or indirectly controls the other
 - b) either company controls the business of the other
 - c) either company controls the other, and the business of the other
 - d) all of the above
 - e) none of the above.

3. The close corporation has the following characteristics:
 - a) the name ends with the suffix CC
 - b) except where authorised, no member may represent the close corporation
 - c) the number of its members is limited to ten natural persons
 - d) both (a) and (b) are correct
 - e) both (a) and (c) are correct.

4. In order to incorporate a company, and have it registered, the following document must be submitted to the Companies and Intellectual Property Commission:
 - a) articles of association
 - b) memorandum of association
 - c) memorandum of incorporation
 - d) association agreement
 - e) agreement.

5. The Companies Act 71 of 2008 seeks to promote economic development in South Africa by:
 - a) promoting entrepreneurship and enterprise efficiency
 - b) introducing capital maintenance
 - c) creating flexibility in the formation and maintenance of companies
 - d) both (a) and (b) are correct
 - e) both (a) and (c) are correct.

6. In *Nedbank (Pty) Ltd v Bestvest 153 Ltd* 2012 (5) 497 (WCC) the court said that there was a need for a new approach in the interpretation and application of Companies Act 71 of 2008 in South Africa and that the courts must_____

- a) interpret the Act in a way that ensures the respect for, and advancement of, the foundational values of the Constitution
- b) promote the close corporation as a vehicle for the promotion of economic and social well-being of all South Africans
- c) give effect to the spirit and purpose of the Act
- d) both (a) and (b) are correct
- e) both (a) and (c) are correct.

7. A *de facto* director is an individual who:-

- a) has not signed a written consent as an indication of his intention to serve the company;
- b) has not been formally appointed as such;
- c) acts as a director, and the company holds him out as a director
- d) all of the above
- e) none of the above.

8. A/an.... is ineligible to be appointed as a director.

- a) emancipated minor;
- b) juristic person;
- c) advocate;
- d) attorney.
- e) person who satisfies the requirements contained in the company's Memorandum of Incorporation.

9. A company will satisfy the solvency and liquidity test if:

- a) its assets, as fairly valued, equal or exceed the liabilities of the company as fairly valued;
- b) it passes the capital maintenance test
- c) it reasonably appears that the company will satisfy the solvency and liquidity test after a transaction that amounts to a distribution has been completed
- d) both (a) and (b) are correct;
- e) both (a) and (c) are correct.
- f)

10. The first annual general meeting of a public company must occur no more than _____ after the company's date of incorporation.

- a) 18 months;
- b) 15 months;
- c) 12 months;
- d) 6 months;
- e) 40 days.

11. The audit committee of a company_____.

- a) Is not a committee of the board of directors
- b) Is a group of directors acting as a collective
- c) has its members appointed/elected by shareholders, not by the board of directors
- d) both (a) and (b) are correct
- e) both (a) and (c) are correct.

12. A director who has been placed on probation may be required to comply with the following:

- a) undertaking a designated course of remedial education;
- b) carrying out a designated course of community service;
- c) paying compensation to any person adversely affected by his/her conduct;
- d) all of the above;
- e) none of the above.

13. A special shareholders' meeting may be held under the following circumstances:

- a) if the Companies Tribunal has issued an administrative order convening such a meeting;
- b) if there is still no quorum after a particular meeting has been postponed for a week;
- c) the company no longer has any directors, because of incapacity;
- d) both (a) and (b) are correct;
- e) both (a) and (c) are correct.

14. A special resolution is required at a shareholders' meeting when the following decision(s) is/are to be taken:

- a) approving the remuneration packages of directors;
- b) providing financial assistance to a particular director to purchase shares of the company;
- c) amending the provisions of the Memorandum of Incorporation;
- d) all of the above
- e) none of the above.

15. The member's interest in close corporation is the equivalent of a/an_____ in a company.

- a) share
- b) debenture
- c) association agreement
- d) all of the above
- e) none of the above.

SUBTOTAL: [15]

SECTION B

QUESTION 1

STATE WHETHER THE FOLLOWING STATEMENTS ARE TRUE OR FALSE. IF YOUR ANSWER BE “FALSE”, MOTIVATE. NO MARK WILL BE AWARDED IF THE MOTIVATION IS WRONG.

1. One of the purposes of the Companies Act 71 of 2008 is to promote the Bill of Rights.
2. A domesticated company is a type of foreign company.
3. The record date is the day on which a company has to submit all its important documents to the Companies Commission.
4. A company is required to discuss any matter raised by shareholders at its annual general meeting, only when reasonable notice has been given to the company.
5. Debentures are debt instruments in terms of which a company acknowledges its liability to some or other creditor.
6. It is the role of directors to carry through the strategies of the company on behalf of managers.
7. The company is entitled to take out indemnity insurance to protect a director against any liability whatsoever.
8. The concept “authorised shares” refers to both issued and unissued shares of a profit company.
9. The Companies Act 71 of 2008 provides for “capital maintenance” on the basis of which the contributed capital of a company should be protected and preserved in order to protect the interests of its investors and creditors.

10. The issue of capitalisation shares constitutes a “distribution” in terms s 1 of the Companies Act 71, and should be subjected to the solvency and liquidity test.
11. A director may only be removed from his position by a special resolution adopted at a shareholders’ meeting.
12. The Companies Act 71 of 2008 prohibits the incorporation of new close corporations.

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QUESTION 2

- 2.1 Name the different types of profit companies. (4)
- 2.2 Discuss each type of company in 2.1, and give an example of each. (8)
- 2.3 Explain the benefits of incorporating an entity as a company. (5)
- 2.4 The difference between an anonymous partnership and a partnership en commandite. (5)

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QUESTION 3

S has just bought shares in ABC (Pty) Ltd and he is not sure about certain of his rights and obligations as a shareholder. He harbours ambitions of becoming a director of the company in the near future. He would also like to know what the nature and scope of his duties and functions would be if he should be appointed or elected as a director of the company. Read the facts provided, and advise S, with particular reference to the following concepts:

- a) "Share" and "securities". (3)
- b) "Alternate director". (4)
- c) The duties that rest on the directors. (6)
- d) What a proxy is, and his or her role is. (7)

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QUESTION 4

4. Sibusiso Shozi, a sole trader who owns a thriving fruit and vegetable store, would like to change the structure through which he conducts his business, and to own and manage it together with other persons. Advise him on the following:

- a) The requirements of a partnership, and how it (the partnership) differs from a company. (7)
- b) The two kinds of trust that there are in terms of South African law. (6)
- c) Explain the nature, and set out the contents, of a securities certificate. (7)

d) Person trading in uncertificated securities and their brokers must work through a Central Securities Depository Participant. Name only four (4) entities that are registered as such in South Africa. (4)

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TOTAL: [100]
