
**CERTIFIED PUBLIC ACCOUNTANT
INTERMEDIATE LEVEL EXAMINATIONS**

I1.3: COMPANY LAW

THURSDAY: 05 DECEMBER 2019

INSTRUCTIONS:

1. **Time Allowed: 3 hours 15 minutes** (15 minutes reading and 3 hours writing).
2. This examination has two sections **A** and **B**.
3. Section A has two compulsory questions, 1 & 2 and one choice question, (3 or 4) not both.
4. Section B has two questions (5 & 6) to choose one
5. In summary answer 4 questions, three in section A and one in section B
6. Marks allocated to each question are shown at the end of the question.

SECTION A (COMPULSORY)

QUESTION ONE

- a. Bwiza, Gakara, Kalibwenge and Mahame created Bwiza & Associates in 2018. After fulfilling the requirements set out in the Articles 3 and 5 of the Law N°17/2018 of 13/04/2018 governing companies. Bwiza & Associates was incorporated under the company name, Bwiza & Associates Ltd and it was recorded in the register of companies by the Registrar General. The whole process is technically referred to as registration of incorporation documents.

REQUIRED:

Discuss the consequences of the registration of incorporation documents of Bwiza & Associates Ltd.

(10 marks)

- b. With reference to the Law N° 17/2018 of 13/04/2018 governing companies and focussing on their characteristics, explain the differences between the categories of companies

(15 marks)

(Total marks 25)

QUESTION TWO

- a. Gishushu Ltd is a company located at Kacyiru in the City of Kigali. It was created in June 2018 by Kaguru, Kaboko and Mutwe. After its creation in June 2018, its Board of Directors composed of Kaboko and Mutwe appointed its first auditor Mayeri who served the office until June 30, 2019 the day of Gishushu Ltd first Annual General Assembly and sixty (60) days after the date that Gishushu Ltd.'s annual accounts were sent to shareholders. One month after the Annual General Assembly, Kaguru, a non-board member shareholder of Gishushu Ltd who was not satisfied with the management of the company by the Board of Directors, appointed Kazubwenge as the Gishushu Ltd's particular auditor to audit the accounts of Gishushu Ltd.

REQUIRED:

Elaborate on the legality of the appointment of the auditors of Gishushu Ltd.

(10 marks)

- b.
- i. Kari Ltd is a capital venture company located in Masoro the famous business area where Kigali Free Economic Zone is located. It was created by famous five brothers, Mukire Juma, Mukire Julius, Mukire John, Mukire Joseph and Mukire Kari, the younger brother whose name was picked as their company name, Magorwa Renatus and Mahane Fight, in early 2019 while the payment of the contract the company had entered with Ntibindeba Ltd, Ntibindeba Ltd transferred the money to the personal account of Magorwa Renatus who had made an invoice for the payment of the amount due to the company. Mahane Fight, who is a shareholder and also a non-Board member lodged a complaint to Commercial Court against Ntibindeba for the amount due to KARI Ltd.

REQUIRED:

Explain the legality of this application in other words do you think Mahane has the capacity to lodge a complaint against Ntibindeba Ltd to recover the loan it had contracted with KARI Ltd. Explain your position basing on relevant legal provisions.

(5 marks)

- ii. KALIMA plc was created in January 2019. Its shareholders upon the registration of documents of its incorporation appointed seven directors, four of those were executive directors whereas Mwana was aged fifteen (15) and Muzehe was (80) years old and both were appointed directors. The

directors were appointed by an ordinary resolution of shareholders. The resolution also appointed Mahirwe as the chairperson of the Board and the Chief Executive Officer of KALIMA plc.

REQUIRED:

Explain the legality of these appointments

(10 marks)

(Total marks 25)

QUESTION THREE

- a. Karembure Investment Ltd is a company limited by shares located in Kicukiro. Its shareholders subscribed for ordinary shares in their company. In 2019 one of the key talking points in the Annual General Meeting was the right to vote on shareholders' resolutions as a fundamental right attached to shares. Some of the shareholders believed they can pass resolution on any matters whereas others contested this argument retorting that the right to vote on shareholders is limited right per the provisions of the Law governing companies in Rwanda. Knowing that you are an expert in company law, Mr Kwitonda, the Chairman of the Board of Directors and the Chairman of Karembure Investment Ltd Annual General Meeting hired you for advice on the contents of the right to vote on shareholders' resolution.

REQUIRED:

Basing on relevant legal provisions, advise the Annual General Meeting of shareholders of Karembure Investment Ltd appropriately.

(10 marks)

- b. Makara, Pusi and Kagabo formed MPK Ltd in 2015. Their company trades in retail business and it is one of the success story charcoal trade in the City of Kigali. Though it started with a small capital of five million Rwandan francs (FRW 5000,000), the company has rapidly expanded and grown in value. It is now doing business in cooking gas and petroleum products in particular those involved in cooking and warming houses. The current value of MPK Ltd is (FRW500,000,000).The company from initial capitalisation was entirely owned by Makara, Pusi and Kagabo who respectively subscribed for its shares. Makara subscribed for 10,000 shares and entirely paid for them, a total sum of one million and five hundred thousand Rwandan Francs (FRW 1,500,000) which granted (30%) of MPK Ltd. Pusi also subscribed for and paid for thirty percent (30%) of the shares while Kagabo subscribed and paid for forty percent of shares in MPK Ltd. In late 2018, Kagabo contracted a loan with the Bank of Kigali plc worth one hundred million Rwandan francs (FRW 100,000,000) and secured it with his shares in the MPK Ltd and the collateral was duly registered with the Registrar General. However, Kagabo failed to repay his loan at the Bank of Kigali and he defaulted. The Bank of Kigali requested the commercial court to transfer the shares of Kagabo to it, a request which the commercial court granted in its ruling N°RCOM 000783/2019/TC. In the ruling the court said "the shares of Kagabo are here by transferred to the Bank of Kigali with immediate effect" but when the Bank of Kigali presented the copy of judgement with an enforcement order, Makara and Pusi declined to register the transfer to the Bank of Kigali.

REQUIRED:

The Bank of Kigali approaches you, as an expert in company law. Basing on relevant legal provisions advise the Bank of Kigali appropriately.

(10 marks)

(Total marks 20)

QUESTION FOUR

- a. Kigali Max plc, a company located at Nyarugenge invited in late July 2019, the public to deposit money to it as it was struggling to finance the tender it had recently won from the Government of Rwanda. In this context Gafaranga one of the richest persons in Rwanda deposited sixty billion Rwandan francs (FRW 60,000,000,000,000) to Kigali Max plc which in return gave to Gafaranga a document evidencing an acknowledgement of indebtedness of Kigali Max plc in respect of sixty billion Rwandan francs (FRW 60,000,000,000,000).

REQUIRED:

Basing on the law N° 17/2018 of 13/04/2018 governing companies, explain:

- i. The process Kigali Max plc used to get funds from the public to finance the tender it had won from the government of Rwanda. (5 marks)
 - ii. The nature of the document Kigali Max plc gave to Gafaranga to acknowledge indebtedness. Can this document be a basis for the allotment of shares to him? Explain your position. (5 marks)
- b. Kamulari and Karibwenge are in the process of creating a company. They have already reserved a name with the Rwanda Development Board, “K&K”. However, they are struggling to know the types of shares under Rwandan law governing companies if any.

REQUIRED:

Explain to them the types of shares under the Law N°-17/2018 of 13/04/2018.

(10 marks)

(Total marks 20)

SECTION B

QUESTION FIVE

Gihombo Ltd is a company limited by shares. Recently the company lost a lot of its investments and is in the process for application for commencement of insolvency proceedings. However, as the shareholders and the directors of the company were not informed about insolvency proceedings and practice thereof, they approach you for advice on the following:

- a. Persons allowed by law to apply for commencement of insolvency proceedings. (12 marks)
- b. Content for commencement of insolvency proceedings application. (6 marks)
- c. Effects of commencement of insolvency proceedings. (12 marks)

(Total marks 30)

QUESTION SIX

- a. In relation to the Law N°2/2018 of 29/04/2018 relating to insolvency and bankruptcy, write a brief note on:
- i. Commencement of liquidation (4 marks)
 - ii. Persons with capacity to appoint a liquidator. (6 marks)
- b. Gabiro Ltd has recently become heavily indebted that it could not pay its debts when they become due. Nevertheless, it failed to process any step leading to the commencement of insolvency proceedings. The creditors it owed money requested the commercial court for the appointment of the liquidators. Explain to the court the circumstances under which the court may appoint a liquidator. (10 marks)
- c. State the effects of liquidation. (10 marks)

(Total marks 30)