



**CERTIFIED PUBLIC ACCOUNTANT**  
**INTERMEDIATE LEVEL EXAMINATIONS**

**I1.3: COMPANY LAW**

**DATE: WEDNESDAY 29, NOVEMBER 2023**

**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.
7. The question paper should not be taken out of the examination room.

## **SECTION A**

### **QUESTION ONE**

(a) Five long-lasting friends who studied accounting in the same university namely Kamana Jeanne, Kamanzi Paul, Iradukunda Michael, Ganza John and Uwera Jesca were sharing a glass of beer during the festive season and discussing how their friendship can generate income. Uwera Jesca proposed to incorporate a company with the business activity of providing transport services. In the meantime, Kamanzi Paul who knows some basics of company law proposed to register a private company limited by shares with a share capital of fifty million (FRW 50,000,000), with 1000 shares. He further proposed that each shareholder will subscribe shares based on the interest and affordability. The discussion became interesting and they agreed on the proposals and all procedures that will be used to register it through the Registrar General of companies. Iradukunda Michael who does not have much knowledge on how a company is incorporated, its functioning, its capacity and powers towards its shareholders, requested for more information on those issues raised. The questions raised were very complicated to all of them and Ganza John decided to call a friend of him, Mwizerwa Pierre who is studying Company Law as a Certified Public Accountant (CPA) for more clarification.

#### **Required:**

Assume that you are Mwizerwa Pierre, a student of a Company Law, **discuss the capacity of a company when it has been given a certificate of registration?** (4 Marks)

(b) GKN Ltd a private company limited by shares and guarantee through its Chief Executive Officer agreed and signed without consulting her Legal Advisor a business contract with another company Mwiza Ltd equivalent to four billion (FRW 4,000,000,000) for one year effective from 20<sup>th</sup> June 2022. After two months (24<sup>th</sup> August 2022), the Board of Directors was informed about that deal and decided to terminate the contract on the basis that the CEO does not have power to transact any business whose value is over two billion (FRW 2,000,000,000) without a resolution of the Board of Directors as provided for by Memorandum of Association and Articles of Association of the Company. More so, the contract signed is based on a business activity that is not within the rights and powers of the company. The CEO apologized for not complying with the laws and regulations and the administrative fault committed but promised that the contract is beneficial to the GKN Ltd and informed the Board of the Directors that he will not terminate the contract because of the loss the company can incur. For compliance purposes, the Chairperson of the Board of Directors of GKN Ltd is contemplating to file a case at the Commercial Court of Nyarugenge against Mwiza Ltd for terminating the contract but before engaging the court for the said termination of the contract, he needs legal advice to know if really, the Court can terminate it.

**Required:**

- (i) On the basis of the above case scenario, **explain if the contract signed without complying with the Memorandum of Association and Articles of Association of the GKN Ltd is a sufficient ground enough to terminate the contract?** (4 Marks)
- (ii) The Board of Directors of GKN Ltd decided to terminate the contract and informed Mwiza Ltd of the decision and invited it through a phone call to come and negotiate the procedures that will be used for terminating the contract within five working days. **Discuss the legality of the way used to provide the notice to Mwiza Ltd.** (4 Marks)
- (iii) As per the decision of the Board of the Directors of GKN Ltd, a petition against the contract was submitted to Court because Mwiza Ltd refused to accept the cancellation of the contract and the Court has requested Mwiza Ltd to respond to the petition not later than 15 days. As a Lawyer of Mwiza Ltd, **Explain the situations provided for in law for not asserting against a person dealing with a company as it will be used as a defense.** (13 Marks)

**(Total: 25 Marks)**

**QUESTION TWO**

(a) Kwitonda (father), Nsengimana (son of 30 years old) and Kamana (daughter of 25 years old), who were doing an informal business, decided to incorporate a company that will produce electronics because they were trained on the law governing companies in Rwanda, in line of implementing the project of the City of Kigali aiming at minimizing the informal business. Kwitonda has requested his children to use the name of Philips as the company name because he believed that the business will grow faster as its products will be confused with Philips another company registered in Rwanda that produces electronics. Others became reluctant on the proposed name and decided to hire Mr. Bamenya (a lawyer) for helping them to draft all required documents, propose a name that will be approved by the Registrar General and assist them in the process of registering a company.

**Required:**

- (i) If you are approached to help them to propose a name that will be registered by the Registrar General of Rwanda as a company name, **explain what should be considered basing on restrictions on company name as provided for by Rwandan company law.** (10 Marks)
- (ii) After five (5) years of operations, the company decides to change the company name because it finds out that the new name will be used as a marketing strategy. **Discuss the procedures of changing a company name in Rwanda.** (4 Marks)

(b) A religious private company limited by guarantee focusing on doing business in education for promoting religion wants to request the Registrar General of Rwanda to dispense to add the abbreviation “Ltd” because it hampers its business with its partners as regarded a company for profit making. The Chairperson of the Board of Directors requested for advice in a meeting of the Board of Directors and some argued that it is possible but others said that it cannot be allowed because it has been registered as a private limited company and it is getting a profit. Finally, the Board of Directors meeting has requested the Chief Executive Officer to get information on the issue and the decision will be taken in the next meeting.

**Required:**

- (i) As the student of company law, **is it possible to dispense to add the abbreviation “Ltd”?**  
**Comment on the issue** (3 Marks)
  - (ii) **Discuss when a company is required to abandon a name** (8 Marks)
- (Total: 25 Marks)**

**QUESTION THREE**

A company called Ganza Plc limited by shares, an insurance company with 12 members of the Board of Directors. On the second year of their term of 5 years, an Internal Auditor in her report found out that one of the members of the Board of Directors failed to disclose an interest he has in a framework contract that is expected to cost the company one hundred twenty million (FRW 120,000,000). The contract is into execution and it has already costed a half of the expected total cost. The chairperson after getting the report, she become surprised and felt of anxiety of the misbehavior of her colleague member because the issue of the conflict of interest is discussed in all their meetings. During that period, the company has started to be unable to pay its debts that are due. The Chairperson decided to call the extra ordinary meeting of the Board of the Directors on the only agenda of discussing the internal auditor’s report including the issue raised in the report of one of the members of the Board. In the meeting, the accused member of the Board said that he decided not to disclose it because the contract is beneficial to the company.

**Required:**

- (a) **Do you think he is right or wrong on the explanation provided during the meeting the reason why he failed to disclose it? Explain your position.** (5 Marks)
  - (b) **In which situations a transaction can be treated as interested to the member of the Board of Directors? List such transaction.** (10 Marks)
  - (c) If the Chairperson decides to file a case to a competent court against the member of the Board of Directors who failed to disclose interest and caused a loss to the company, **what should be the possible orders can be taken against him. Discuss them** (5 Marks)
- (Total: 20 Marks)**

## QUESTION FOUR

XYZ Ltd is a domestic private company limited by shares located in Gasabo District and working in three countries namely Rwanda, Tanzania and Uganda on IT projects. It has five shareholders with a share capital of one hundred billion (FRW 100,000,000,000) and each of them invested twenty billion (FRW 20,000,000,000). The chairperson of the XYZ limited approached Mr. Bumenyi, as the one who is the best in IT in Rwanda, to persuade him to join the company as a new shareholder. Mr. Bumenyi become interested but he informed him that he is not able to get twenty billion (FRW 20,000,000,000) of one share. The company that has reached assets of five hundred billion (FRW 500,000,000,000), the Chairperson told him that the company may provide financial assistance to buy such share provided that he will use his skills to increase the profits of the company. Mr. Bumenyi agreed with the deal and promised that he believes that basing on the skills and network he has, in three years to come, the assets of the company will be tripled.

### Required:

(a) Before calling the Board of Directors' meeting to take a resolution of providing a financial assistance to Mr. Bumenyi for becoming a shareholder, the chairperson of the Board of Directors comes to you for legal opinion if the proposal is legal and the way forward for it. **As an expert in company law, critically examine the proposal and provide the requirements if so.** (10 Marks)

(b) Finally, some members of the Board of Directors took a resolution in favor of the proposal allowing a financial assistance to Mr. Bumenyi for buying 1 share in the company. One of the shareholders after getting such information, she believed that the resolution is unfair and prejudicial to her interests and has decided to apply to court but because she is not sure of the results, she comes to you for legal advice. **Comment on her position and list the persons allowed to the competent court to stop the unfair prejudice related to providing financial assistance by a company for the purchase of its own shares.** (6 Marks)

(c) Assume that you believe the court will take an order restraining the proposed financial assistance and we know that an order should be based on pleadings and evidences, **list the grounds you may base on when you apply to the court.** (4 Marks)

**(Total: 20 Marks)**

## **SECTION B**

### **QUESTION FIVE**

Sun Plc is doing business of road construction in Rwanda and has many contracts in different districts of Rwanda. Its shareholders have different class of shares which comprise a share capital of ten billion (FRW 10,000,000,000). In the annual meeting of shareholders, different issues discussed included the presentation of the proposal of the Board of Directors on how dividends will be distributed, the allotment of shares and related rights. Bukungu Nesta (a shareholder) provided a point of view that depending on the types of shares, they have different powers and rights so that as the majority shareholder, he decided to buy all new shares that Sun Plc want to allot. He added that whoever will refuse, automatically his/her shares will be bought by him willingly or unwillingly. Macumbi Peter one of the shareholders arguing that all shareholders should be treated the same except on getting dividends because he believes that each shareholder will get dividends proportionally to the shares subscribed. The Chairperson of the Board of Directors become upset and tried to explain them first to understand what is a share, its characteristic, different types of shares and explaining why shareholders are in different classes of shares in a company.

#### **Required:**

- (a) **Define a share.** (2 Marks)
  - (b) **As you are experienced in company law, discuss the characteristics of a share.** (5 Marks)
  - (c) In that annual meeting of shareholders, while the Chairperson of the Board of Directors still explaining all issues related to shares, one of the participants said that a share as it is intangible property, it can be linked to immovable properties. **Do you think this argument is true? Explain** (4 Marks)
  - (d) The annual general meeting approved the proposal of the Board of the Directors to allot shares and Makuru becomes interested to join the company as shareholder but he does not know which type of share he can subscribe for and approaches you for advice. **After listing all types of shares, advise him one he can choose and provide one advantage of it compared to others** (9 Marks)
  - (e) **Discuss your understanding on authorization on allotment of shares** (10 Marks)
- (Total: 30 Marks)**

## QUESTION SIX

Ten shareholders have incorporated in May 2021 a company ABD Ltd limited by shares in which they have all ordinary shares. The company has a share capital equivalent to five hundred million (FRW 500,000,000) with 1000 shares. Six shareholders have one hundred (100) shares each, three have fifty (50) shares each and one two hundred and fifty (250) shares. According to article 100 of the Law N° 007/2021 of 05/02/2021 governing companies provides that a newly incorporated company may hold its shareholders' meeting within eighteen (18) months of its incorporation. As it is in the powers of the Board of Directors to convene annual meeting of shareholders, it is organizing an annual general Assembly on 26<sup>th</sup> January 2023 and you have been appointed as the Company Secretary of the company and requested to draft a paper related to shareholders' general rights as far as it is the first time for the shareholders to attend such meeting.

### Required:

- (a) **List seven fundamental rights attached to shares.** (7 Marks)
  - (b) **Discuss the method of sending documents to shareholders.** (3 Marks)
  - (c) After sending all documents related to annual meeting of shareholders and mentioning the date of the meeting and its place, one of the shareholders sends a request to know the date for determination of shareholders' rights and if he may be represented in that meeting and he enjoys all rights attached to his shares because he plans to travel to China for business purpose. **Discuss on the date for determination of shareholders' rights and respond to him on the basis of the provisions of Law.** (8 Marks)
  - (d) The shareholders requested the company to be disclosed the documents as required on annual basis as provided by the law governing companies and it passed eight months after the company's accounting reference date without any positive response, one of the shareholders comes to you for requesting advice on documents should be given at annual basis so as he writes an official letter requesting them. **List the documents to be sent annually to every shareholder of the company and time limits for disclosure of such information.** (12 Marks)
- (Total: 30 Marks)**

**End of question paper**

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