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**CERTIFIED PUBLIC ACCOUNTANT  
INTERMEDIATE LEVEL EXAMINATIONS**

**I1.3: COMPANY LAW**

**DATE: WEDNESDAY 27, NOVEMBER 2024**

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**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 **four 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) Muvunyi Andre and Nsigaye Pierre are all candidates of ICPAR examinations and good friends and they are almost completing their studies. In one of their discussions, they agreed to establish a private Limited company which will aid them with other prospective shareholders to make good profit.

Muvunyi was of the opinion that they should look for few more shareholders and that they should not exceed ten (10) members in total. He further explained that because of the manageable number every member shall be assigned a task and with commitment, the company will make great investment.

The idea sounded good for Nsigaye who accepted the proposal and suggested that each should look for four committed members for the venture. Within a period of two weeks, Muvunyi and Nsigaye together with other eight members had put the initial capital ready and applied for the registration of their company (Nyiramata Private Limited Company) having its headquarters in Huye and whose main business is to deal with dairy products.

The other members are Uwimana Grace, Akayesu Chris, Rukundo David, Kabera Harrison, Nkusi Robert, Balisanga Monique, Umurerwa Adalithe and Mukisa Alice respectively. They raised the share capital of one hundred million Rwandan Francs (FRW 100,000,000) to which each contributed ten million Rwandan Francs (FRW 10,000,000). All the members are well educated and they understand how the company operates.

Subsequently, after the registration, the business commenced to which each of the members was assigned specific role to perform in making Nyiramata Private Limited company great, in addition to making profit for themselves, however in the first and second quarter of the year 2023, Akayesu Chris and Mukisa Alice performed very poorly and they did not explain the reasons for their poor performance. The same trend was once again observed in the first quarter of the year 2024 and still without reasons despite the two members enjoying the profits made.

An annual general assembly of the shareholders has been scheduled with among the agenda of the meeting is the removing Akayesu Chris and Mukisa Alice from the membership of the company on the basis of the non-committal to the company's activities. After the removal Akayesu Chris and Mukisa Alice went to court to stop their removal.

#### **Required:**

- i) **As a candidate of company law, is the company justified to remove the two members from the company? Justify your answer.** (2 Marks)

ii) **The meeting was held and the two were removed from the membership and you as a candidate you are called to court to justify the removal, explain one valid reason which justifies their removal from the company.** (6 Marks)

iii) In the above case scenario, the incorporation documents have restricted the business of Nyiramata to dairy products but the directors have seen opportunities outside the dairy industry and they want to venture outside the object clause. **Explain to the directors, the position of law regarding the powers of the company.** (5 Marks)

iv) From the case scenario above, it was discovered that Mukisa Alice was having a child suffering from cancer and was attending to her and Akayesu Chris was having matrimonial problems in which there is a divorce case in court which required him to be attending in person. Given that these are private matters and they were never given the opportunity to explain their situation at the meeting of shareholders. **Do you think that their removal was still justified with the available information? Justify your answer.** (2 Marks)

v) Notwithstanding the capacity of the company, the law provides that such capacity does not limit any right to bring proceedings against a director or other employee of the company or against a third party in connection to the violations. **Explain any three violations against which one may bring a proceeding in the court of law.** (6 Marks)

b) Rutsiro Public Limited company was established in the year 2012 with the sole objective of harnessing rice farming in Western Province. For a period of five years, the company was doing very well and the shareholders enjoyed the returns over their investment. From April 2018 the company started experiencing some financial constraints forcing the company to issue debentures to raise the much-required capital to keep its business going. Compounded with the outbreak of the Corona pandemic, the company would not withstand the pressure and was at the virtue of collapsing. During its most difficulty times, the rice showed some upward trend notwithstanding the unpredictable weather conditions.

The company creditors fearing to lose millions of monies which they had advanced to the company in loans, took the company to court on the grounds that the company has become insolvent. On their part, the directors of Rutsiro Public Limited company explained that the company is not insolvent and that it was a mere disruption by the pandemic. The directors asked the court to give them one month to go and engage with the creditors and find the way out on how they can pay them. The court granted the request and within that period, the company laid down and elaborated a plan of how the creditors shall be paid within a period of one and half years. The creditors accepted the plan and they took it to court whereby the document was signed and sanctioned.

**Required:**

**Identify and define the process undertaken by the company and the creditors in the case scenario above and provide any two advantages of the process identified.** (4 Marks)

**(Total: 25 Marks)**

**QUESTION TWO**

a) Rurangirwa John, Mutimura Annette, Mugabo Ted and Mutazindwa Joshua are all Bachelor of Business Administration (BBA), final year students at the University of Kigali. After their studies, they intend to register a company together and do business. In their informal interactions, they tried to jog their memories as to the meaning of a company.

Rurangirwa John explained that a company is an association of persons who contribute money or money's worth for a common purpose and that purpose is profit maximization. On her side, Mutimura Annette explained that company law is a branch of law which governs companies.

According to Mugabo Ted, a company is a corporate body composed of one or more persons for making profit. And finally, Mutazindwa Joshua concluded by saying that a company is a legal person recognized by law.

**Required:**

i) As a candidate for company law, **which of the four definitions is a correct definition for a company? Justify your answer.** (4 Marks)

ii) **Is Mutimura Annette right by saying that company law is a branch of law that governs companies? If your answer is yes, explain any five aspects relating to company law as a branch of law.** (6 Marks)

iii) **Elaborate Rurangirwa John's definition on "association of persons and "who contribute money or money's worth".** (3 Marks)

iv) **Elaborate Mutazindwa Joshua's definition of a company being "a legal person recognized by law".** (2 Marks)

b) Mucyurabuhoro Felix and Byaruhanga Beatrice being good friends established Ngororero Public Limited company in the year 2015. In the process of forming the company, they entered into a pre-incorporation contract on behalf of the company for the purchase of five acres of land where the company is situated. In the said process, they made a secret profit of five million Francs for exaggerating the land price. This violation was discovered in February 2024.

In the meantime, Byiringiro Alexis and Donagendo Charity became the shareholders of Ngororero Public Limited Company in April 2016. When dividends were shared among the shareholders, they were given double the dividends they deserved but this anomaly was discovered in July 2023 long after they had transferred their shares in July 2022.

Mbungutse Ben was the Managing Director of Ngororero Public Limited Company from June 2015 to July 2023. He was very well informed about the double payment of dividends to Byiringiro Alexis and Donagendo Charity and the secret profit by Mucyurabuhoro Felix and Byaruhanga Beatrice and took no action as the Managing Director.

Finally, Uwintwali Diana served as the Company Secretary of Ngororero Public Limited Company from June 2015 to September 2023. Similar to the Managing Director, she was aware of all the anomalies within the company but chose to conceal the facts. These irregularities were discovered in 2018, yet no action has been taken to address them.

**Required:**

- i) A newly appointed director (May 2024) is contemplating to take legal action against Mucyurabuhoro Felix and Byaruhanga Beatrice. Is the legal action against them tenable? Justify your Answer. (2 Marks)**
- ii) Explain to the newly appointed director of Ngororero Public Limited company the position of law on taking legal action against Byiringiro Alexis and Donagendo Charity to recover the double dividends wrongly paid. (2 Marks)**
- iii) Can the former Managing Director Mbungutse Ben be held responsible legally to reimburse all the losses the company suffered while he was the Managing Director? Justify your answer. (2 Marks)**
- iv) Explain the legal position with regard to the concealment of facts and inaction from the Company Secretary Uwintwali Diana. (2 Marks)**
- v) From the case scenario above, identify the main legal issue and explain the legal position against all actions of the company". (2 Marks)**

**(Total: 25 Marks)**

**QUESTION THREE**

a) Burera Private Limited company was incorporated in the year 2017 with its main object being harnessing bee farming and mining honey which should be packaged and sold locally and abroad. When the invitation for the purchase of the shares was made, many people applied for the shares thus raising enough capital to undertake its core business in large scale.

With time the company fortunes increased and the company was making huge profits. The share price appreciated in the market but it was not easy for the directors to increase the price of the shares. The Board of Directors made a decision of acquiring the company shares although the shareholders were not given the opportunity for buyout.

Furthermore, the directors did not see the need to give the shareholders the opportunity to exercise the powers reserved to the shareholders exercisable by special resolution on the basis that the acquisition of the shares was good for them and the company. The directors did not also see the relevance of the notification to the office of the Registrar General within the stipulated timeframe for they imagined that all shareholders will cooperate once informed.

The directors convened the meeting of the shareholders and informed them how the company is excellently performing and the share price has appreciated over time and there is greater demand for shares and therefore by acquiring the shares and asking the public together with the existing shareholders to subscribe for the shares a fresh the company will raise enough capital to enable them to expand its business even more.

Majority of the shareholders were convinced and were very excited and they passed an ordinary resolution and the directors were impressed with the progress. However, a few of the shareholders were very much discouraged because they felt that the process of acquisition by a company of its own shares was contrary to the provisions of the law governing companies and they are contemplating to go to court to stop the proposed acquisition.

**Required:**

- i) As a candidate of company law, **are the directors of Burera Private Limited Company within the law with regard to the said acquisition? Justify your answer.** (2 Marks)
- ii) **What are the powers of the directors to acquire shares as provided by law.** (4 Marks)
- iii) **From the case scenario above outline the position of law on the requirements for general offers to acquire shares.** (4 Marks)
- iv) **What are the two requirements for special offer to acquire shares as provided by law.** (2 Marks)
- v) **Explain the position of law on powers reserved to the shareholders exercisable by a special resolution for any acquisition by a company of its own shares.** (4 Marks)
- vi) **Assuming that the few shareholders went to court, on what basis do you think the court may issue an order restraining the proposed acquisition.** (2 Marks)
- vii) **Explain the position of law with regard to buyout as demonstrated in the case scenario above.** (2 Marks)

**(Total: 20 Marks)**

## QUESTION FOUR

a) Ngoma Public Limited Company, Gicumbi Public Limited Company and Nyagatare Public Limited Company are all subsidiaries of Kigali Public Limited Company. The respective companies are rated very high in Rwanda because of good management and as a result many people have invested in these companies which solely deals with beverages. From time to time, the company has always complied with all the statutory requirements. Notwithstanding the achievements, the company did not submit their annual report for the financial year 2022/2023 prompting the Registrar General to write to them asking them to submit forthwith the annual reports.

### **Required:**

- i) As a candidate of company law, **explain the format and the contents of the annual report(s) to be submitted as provided by law.** (10 Marks)
- ii) **Outline and explain any three items of the annual accounts of Ngoma Public Limited Company, Gicumbi Public Limited Company and Nyagatare Public Limited Company respectively.** (3 Marks)
- iii) **Outline and explain any four items of the annual accounts of Kigali Public Limited Company as provided for by law.** (4 Marks)
- iv) **What is the position of law with regard to the duties of directors in relation to annual accounts?** (3 Marks)

**(Total: 20 Marks)**

## **SECTION B**

### **QUESTION FIVE**

a) Gankeke Private Limited Company was incorporated in 2018 and by 2019 almost half of its shares that were on offer had already been subscribed. The business of the company was picking up very well and many people desired to invest in the company.

To enable the company to expand its business, the directors resolved to issue one quarter of its remaining shares to raise the additional capital required. They called for the shareholders meeting and informed them of their intention to issue more share to the public to raise the additional capital.

During the discussion, majority of the members suggested that it will be good if those shares were to be distributed to the existing members first and in case, they shall not be taken all then the remaining shares should be issued to the public for subscription. Munyaneza Emma one of the shareholders went and informed two of his friends that the company has issued shares and that they should apply for the shares.

By the time the two friends were making the application, all the shares to be issued had been fully distributed to the existing members and there was none left to be issued to the public. The two friends of Munyaneza Emma were very much annoyed and are contemplating to take the company to court for discriminating against them by not allotting them shares after the purported public invitation to subscribe for shares.

The directors having invested the capital raised for the expansion they realized that they were in need of one hundred million francs (100,000,000FRW) to a chieve the target they had in mind. They resolved to borrow the said monies from ten known business men who they issued with hand written notes as an acknowledgement of the monies lend to them.

#### **Required:**

- i) As a candidate of company law, do you think that the two friends of Munyaneza Emma can succeed if they go to court? Justify your answer.** (2 Marks)
- ii) Explain the position of law on pre-emption rights on the basis of the above case scenario.** (6 Marks)
- iii) As a candidate of company law, what is your understanding on the legal position of these ten men who gave the company a loan. Explain the legal position of law on the handwritten note acknowledging the debt.** (4 Marks)
- iv) On the basis of the case scenario above, explain the legal position on authorization to allot shares.** (4 Marks)



b) Gasabo Public Limited Company was incorporated in the year 2020 with its core business being the manufacture of furniture and other timber related accessories. In its constituent meeting of the company members were having some questions touching on the incorporation documents and more specifically with the articles of association. Munyangabo Elie having gone through the articles of association was interested to know why the transfer of shares was restricted and the process of transfer being very complicated. In addition, the articles expressly indicated that shares can be in the nature of immovable property and that shares are the property of the company and not of shareholders

On his side Munyampeta Pierre was very much concerned to know why the company had imposed a restriction on the allotment of shares in lieu of the dividends. He also wanted to know why the articles restricted the right to appoint and remove an auditor of the company, approve a major transaction and the rights to make a determination on a major transaction nor the approval of amalgamation.

Many more other shareholders were having a number of questions to raise but because they were not well conversant with matters dealing with company law, they decided to shelve their questions for the time being as they try to undertake their personal investigation and if possible, raise the questions on subsequent meetings of the company.

**Required:**

- i) As a student of company law, **explain the four issues raised by Munyangabo Elie and outline any four characteristics of a share as provided for by law.** (6 Marks)
- ii) **Explain to Munyampeta Pirre the position of law on allotment of shares in lieu of dividends.** (4 Marks)
- iii) **Do you think that a company through the articles of association was right to restrict the appointment and removal of an auditor, approval of major transaction and approval of amalgamation? Justify your answer.** (4 Marks)

**(Total: 30 Marks)**

**QUESTION SIX**

a) Rusanga Eunice, Ngamije Felix, Ruzindana Fred and Gasirikare Gerald are all new shareholders of Nyarugenge Public Limited Company which was incorporated in February 2023. In their quest to gain more understanding on the working of the company and their obligation and liabilities, they decided to consult the incorporation documents for more knowledge.

The articles of association of the company stated that the right to dividends is qualified and that there is a class of shareholders who may not be entitled to dividends subject to the conditions provided. With regard to the right to vote, the articles also do not allow the members to vote of a number of important issues like approving a major transaction, amalgamation and dissolution of the company.

Gasirikare Gerald and Rusanga Eunice felt that the articles of association went beyond the law by taking away the legal entitlements. On the contrary, Ngamije Felix and Ruzindana Fred said that the articles of association are in order provided that the shareholders are in agreement with the provisions of the articles of association.

**Required:**

- i) As a candidate of company law, **what position is right between Gasirikare Gerald, Rusanga Eunice, Ngamije Felix, and Ruzindana Fred? Justify your answer.** (2 Marks)
- ii) **Explain any four fundamental rights attached to shares as provided by law.** (6 Marks)
- iii) **Unless otherwise specified in the incorporation documents, each share is attached to it a number of rights. Explain any such two rights.** (2 Marks)

b) Kayonza Public Limited Company was incorporated in June 2010 with the sole objective of large-scale sugar manufacturing and subsequent farming of sugarcane. In the initial years of its operation, the company performed very well and it had established three sugarcane milling plants within Kayonza District. The company contributed greatly in meeting the sugar demands of the country.

Between the year 2016 and 2019 the company faced the shortage of sugarcane for milling as the change in climate had impacted on the sugarcane growth and thus causing some sort of a crisis. The company had taken huge loans and had purchased lots of farm inputs for purposes of expanding the business and because of the climatic change most of those inputs went into a loss.

With the outbreak of the Covid 19 in the year 2020 most of the company's activities were paralyzed and the company was at the verge of collapsing. The Board of Directors convened to discuss the way forward but the members would not agree on any tangible immediate solution to avoid the company from collapsing.

The directors, notwithstanding their differences, convened the general assembly and informed the shareholders of the state of affairs of the company. In the discussion, one group of shareholders backed with some directors recommended for the liquidation of the company while another group of shareholders backed by yet some directors opposed the move to liquidate the company.

The division for the shareholders and the directors was on the middle and thus it was impossible for any resolution to be passed. It is also worthy to note that during the three years that the company was going through the crisis, compliance with the law governing companies was suspended, the company had failed to pay its many creditors who had gone to court seeking for the liquidation of the company.

Amidst the chaos observed, one shareholder Marie Grace approached the court and requested the court to appoint the liquidator to liquidate the company on the basis of the documented misunderstanding. In her argument in court, Marie Grace feared that if immediate action is not taken, some court orders which had been issued may be implemented at the cost of many stakeholders.

**Required:**

- i) As a candidate of company law, **do you think that the court can appoint a liquidator to liquidate Kayonza Public Limited Company on the request of Marlie Grace? Justify your answer.** (2 Marks)
- ii) **Explain the position of law on circumstances in which a court may appoint a liquidator.** (4 Marks)
- iii) **Explain the position of law on the effects of liquidation on Kayonza Public Limited Company.** (6 Marks)

c) Mukono Public Limited Company was incorporated in May 2015 and its registered office is in Lilongwe, Malawi. The company has a subsidiary operating in three provinces in Rwanda. On the process for its registration, the Registrar General provided the company with the date of 30<sup>th</sup> June as its “accounting reference”. On November 2016, the company submitted its first annual return to the office of the Registrar General.

In the aforesaid annual returns, the company provided the information on the principal place of business, that the annual accounts have been delivered as provided by law and that both the annual return for the parent company and its subsidiaries have been attached together.

When the Registrar General received the returns, he wrote back to the company and explained that the returns were in-complete and hence rejected them. Muvara James, one of the directors residing in Rwanda, being not very much well conversant with the law relating to companies, concluded that such rejection amounted to cessation of the business activities of the company in Rwanda.

**Required:**

- i) As a student of company law, **do you think the Registrar General was justified to reject the annual return of Mukono Public Limited Company? Justify your answer.** (2 Marks)
- ii) **Explain to Muvara James the position of law on annual return of a foreign company.** (4 Marks)
- iii) **Explain to Muvara James the position of law on circumstances when a foreign company ceases to carry business in Rwanda.** (2 Marks)

**(Total: 30 Marks)**

**End of Question Paper**

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