



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 16 – The Practice of Company and Partnership Law

Question paper

January 2023

Time allowed: 3 hours and 15 minutes (includes 15 minutes' reading time)

Instructions and information

- It is recommended that you take **15** minutes to read through this question paper before you start answering the questions. However, if you wish, you may start answering the questions immediately.
- You must answer **all** questions.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to use your own printed copy of the pre-release case study materials, as long as the materials are not annotated in any way. Alternatively, you can access the electronic version of the pre-release case study materials available in the examination.
- You are allowed to make notes on your scrap paper during the examination.
- You can use your own unmarked copy of the following designated statute book — **Blackstone's Statutes on Company Law 26th edition, Derek French, Oxford University Press, 2022.**
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

Answer ALL questions

Question 1

Reference: Question relates to **Document 1** of the case study materials.

Abdul and Conor need some legal advice on their partnership, Hertfordshire Pond Design & Maintenance (the 'Partnership'). As a result of Bree's conduct, and the general cost of living crisis, the business is currently struggling to pay its debts. Abdul and Conor are considering dissolving the Partnership but are particularly concerned about any personal liability they might then face for the Partnership's debts.

Alternatively, they are thinking about continuing the Partnership but replacing Bree with a new partner and bringing proceedings against Bree for the harm that her conduct has caused to the Partnership.

Advise:

- (a) on what basis the Partnership could be dissolved and what the effects of such dissolution would be, including in relation to Abdul and Conor's potential personal liability.

(15 marks)

- (b) whether Abdul and Conor can continue the Partnership but replace Bree with a new incoming partner and whether Bree could be liable for the harm that her conduct has caused to the Partnership.

(8 marks)

(Total: 23 marks)

Question 2

Reference: Question relates to **Document 2** of the case study materials.

- (a) Advise Darius and Eamonn on the relative advantages for them in running their new business as either a suitable type of partnership or a suitable type of company, including advice on how any profits made would be taxed.

(15 marks)

Assume that it is now one week after you have given the above advice, and Darius and Eamonn have decided to operate their business as a company, to be called 'UV Fabric & Clothing Limited'. They have heard that it is possible to use a shelf company to set up their business, but they are not sure what this means or what is involved. Your firm has a shelf company available, details of which are set out in **Document 2**.

- (b) Advise Darius and Eamonn on the advantages of using the shelf company for their business and the amendments (including additional documentation and filings) that will be required to make the shelf company suitable for their needs.

(15 marks)

(Total: 30 marks)

Turn over

Question 3

Reference: Question relates to **Document 3** of the case study materials.

Advise Picture Frames to You Limited (the 'Company') on **all** of the following:

(a) in relation to the issuing of shares to Jas and obtaining a loan and granting security to HertsBank plc:

- the advantages and disadvantages for the Company of each of these forms of finance;
- the procedures required to implement each of these forms of finance.

(15 marks)

(b) the types of charges required by HertsBank plc, why such security is required and over which of the Company's assets such charges are likely to be granted.

(7 marks)

(Total: 22 marks)

Question 4

Reference: Question relates to **Documents 4 and 5** of the case study materials.

You are instructed by Zara Ahmed, who is a qualified accountant and is one of the directors of Drywall Limited (the 'Company').

Zara reports that she was not notified of the recent Board Meeting, where the Company's financial situation was being discussed. Zara has since obtained a copy of the Board Minutes (**Document 4**), which show that the other two Directors have decided that the Company will continue to trade despite its serious ongoing financial difficulties. Zara has examined the Company's accounts and believes that the Company is insolvent. Zara also believes she was excluded from the Board Meeting because plans to remove her as a Director were being discussed.

Advise Zara:

- (a) on the procedure that the Company must follow to remove Zara as a Director, and on any methods by which Zara could try to prevent her removal. **(6 marks)**
- (b) on the following:
- the risks that she faces if the Company continues to trade despite its financial difficulties, including any steps Zara could take to mitigate such risks;
 - any potential remedies that Zara might have as a shareholder in respect of the behaviour of the other Directors.
- (12 marks)**
- (c) whether there are any rescue procedures that the Company could consider pursuing to help it trade through its financial difficulties. **(7 marks)**

(Total: 25 marks)

End of the examination