



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

Unit 1 – Company and Partnership Law

Question paper

January 2024

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

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- 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 make notes on your scrap paper during the examination.
- A calculator is provided should you require the use of one.
- You can use your own unmarked copy of the following designated statute book – ***Blackstone’s Statutes on Company Law, 27th edition, Derek French, Oxford University Press, 2023.***
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

SECTION A

Answer at least one question from this section.

Question 1

- (a) Critically analyse how an unlimited partnership may be formed without the express written agreement of the partners.

(16 marks)

- (b) Explain why it is beneficial for partners to have a written partnership agreement rather than relying on the provisions of the Partnership Act 1890, giving examples of the issues such an agreement might address.

(9 marks)

(Total: 25 marks)

Question 2

Critically evaluate the protections available to minority shareholders under section 994 and Part 11 of the Companies Act 2006 respectively.

(25 marks)

Question 3

Critically analyse whether a parent company can ever be held responsible for its subsidiary's liabilities.

(25 marks)

Question 4

Critically assess the restrictions imposed on a company in relation to paying dividends to its shareholders and buying back its own shares, and the exceptions to such restrictions.

(25 marks)

SECTION B

Answer at least one question from this section.

Question 1

For the last three years, Sania has been running a flower-arranging business from home, providing, for example, arrangements for weddings, conferences and funerals. The business has been very successful and Sania's reputation has grown rapidly. A recent valuation has indicated that the business is worth about £250,000.

Sania has decided that it is time to expand the business. She wishes to rent separate premises and acquire a vehicle exclusively for business use. Up until now she has been using her own car. Sania is considering incorporating the business as a private limited company as well as taking on one or two employees, who she would train as necessary. Sania would be both a shareholder and a director of the company.

Sania has some funds of her own that she will invest in the company. The company will also be taking a loan from Sania's bank. Nevertheless, the company will still need additional finance for Sania's expansion plans. A family friend and local businesswoman, Glenda, has expressed an interest in investing about £500,000, either by way of secured loan to the new company or through an issue of shares in the new company.

Sania has come to you for advice about, amongst other things, the process of incorporation. She has proposed Occasion Blooms as the company name.

Advise Sania:

- on the steps to be taken to incorporate the business, including in relation to the name and;
- on the implications for Sania, and for the company, of the two investment options proposed by Glenda.

(Total: 25 marks)

Turn over

Question 2

City Innovative Designs Ltd (CID) is a company that designs and manufactures office furniture and interiors for high-end clients in the City of London. It was incorporated in 2012 with unamended Model Articles for Private Companies. In its latest filed accounts, CID's net asset value was £1,100,000.

Hiba Ahmed holds 8% of CID's shares. She has never been formally appointed as a director but has, for the last five years, regularly attended and participated in board meetings. She has 12 years' experience in the office and furniture design business and has been able to provide invaluable advice to CID. Hiba and CID's board have now agreed that Hiba should be formally appointed as a director of the company, with a service contract that is terminable on three months' notice by either party.

CID's board has recently been seeking new premises. Hiba has proposed that, as part of the arrangements for her joining the board of CID, the company will lease from her a suitable property she currently owns, for an initial premium payment of £120,000. The lease would be for 10 years at an annual rent of £60,000 and would be entered into as soon as she has been appointed as a director.

Hiba has told you that she also owns, jointly with her sister and a cousin, an interior design partnership based in Oxford and has worked for it one day a week for the past five years. She would want to continue her involvement in the partnership after her formal appointment as a director of CID.

Hiba is seeking advice on the following:

- (a) the duties to which she will be subject as a director of CID;

(12 marks)
 - (b) the steps required to implement her formal appointment and grant her service contract;

(6 marks)
 - (c) the implications of CID leasing the premises from Hiba.

(7 marks)
- (Total: 25 marks)**

Question 3

Talia and Kris have been running a luxury travel business together, as a partnership, for six years. They have been trading under the name 'T & K Wonderful Travel' and have three branches in Oxfordshire. The main office is in Summertown in North Oxford. There is a partnership agreement that contains a provision prohibiting partners from incurring any liability exceeding £5000 on behalf of the partnership, unless all partners agree. It also states that the partnership will continue if a partner leaves.

The partners have seen a revival of business in the last couple of years and they are keen to expand into north London and Buckinghamshire. A current employee, Sophie, has indicated that she would be willing to invest up to £50,000 in the business but she has said that she would expect to have the protection of limited liability. It has been provisionally agreed that Sophie will formally join the business at the beginning of July 2024.

After discussions with Sophie, Talia has been giving thought to her own potential liability in relation to the business. Talia's concerns about this have increased recently due to a transaction Kris entered into without Talia's knowledge. About a week ago, the partnership received a demand for payment of an invoice relating to the purchase of a new car for £45,000. On investigation, Talia discovered that Kris ordered the vehicle for himself but in the partnership's name. He told the car dealer that it would impress clients, although it is unclear how. The vehicle was delivered to Kris's home. Recently, Talia has generally got the impression that Kris's commitment to the business has been waning.

Talia seeks advice from you on the following:

- (a) who is liable to pay the invoice for the car, and why;

(8 marks)

- (b) whether Kris could be expelled from the partnership;

(5 marks)

- (c) whether, given her concerns about her potential personal liability, the business should continue as an unlimited partnership or should instead be converted to a limited liability partnership or a private limited company.

(12 marks)

(Total: 25 marks)

Question 4

Welch Way Motor Accessories Ltd (WWMA) was incorporated in 2010. Unfortunately, as a result of the financial difficulties during the pandemic, one of its creditors successfully petitioned for winding up and WWMA was put into insolvent liquidation in December 2023.

WWMA's main activity was the production of vehicle accessories that it sold to both wholesale and retail outlets. It had a board of three directors: Ray who is a qualified accountant; Maddie who is 22 with little business experience and who rarely attends board meetings; and Simon, the business founder and sole shareholder.

WWMA's audited accounts for the year ending 30 June 2022 showed that it was just solvent, having made some profits up to that date. However, its profits began to decline in the second half of 2022. By early 2023, it had started making losses and it continued to do so until it was put into liquidation. It would appear that profits decreased as a result of increases in both energy costs and the price of the raw materials needed for its products. In addition, in late 2022 WWMA had purchased a new software system to try to streamline its ordering and invoicing processes. However, the software did not work properly and WWMA was obliged to spend a significant amount on replacing it.

Buse Colak was appointed liquidator. Buse is particularly concerned about the following three issues.

1. The directors of WWMA continued trading until the winding-up petition, despite WWMA's financial difficulties, and even though several major suppliers had been threatening proceedings for non-payment of invoices since mid-2023. Moreover, the directors had not held a full board meeting since July 2023 and still managed to take holidays in August 2023.
2. WWMA was granted an overdraft by Southern Bank plc in May 2015, allowing borrowing up to £200,000. The overdraft facility has been fully drawn since the end of March 2023. In late April 2023, Southern Bank required WWMA to grant it, the bank, a floating charge over WWMA's undertaking, including book debts, as security for the continuing overdraft. The charge was appropriately registered.
3. In September 2022, Maddie's father purchased from WWMA for £8,500 one of WWMA's delivery vans. This van was shown to have a value of £15,000 in WWMA's accounts in September 2022.

Advise Buse on any action she can take in respect of the three issues described above.

(25 marks)

End of the examination

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