



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 16 – THE PRACTICE OF COMPANY AND PARTNERSHIP LAW*

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Company Law 2020-2021, 24th edition, Derek French, Oxford University Press, 2020.**
- Candidates must comply with the CILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

Question 1

Scuttleforth Farmers' Market Deliveries (SFMD)

Henry Brooker has confirmed that he and his son, Richard, no longer wish to remain in business with Anton. Accordingly, they are looking to dissolve the business as quickly as possible.

Advise Henry with regard to the following issues:

- (a) the nature of the business enterprise that he and Richard have entered into with Anton, and Henry's potential liabilities for the debts and/or obligations created by others while he remains a party to this business enterprise;

(10 marks)

- (b) any claims that Henry could bring against Anton in respect of:

- (i) his use of equipment owned by SFMD;
- (ii) the fact that he has not devoted time to SFMD, focusing instead on his own consultancy;

(10 marks)

- (c) (i) how the business enterprise may be dissolved and the subsequent steps that must be taken on dissolution;

- (ii) how the debts of the business enterprise would be settled on dissolution, including protecting Henry from further liability towards third parties.

(10 marks)

(Total: 30 marks)

Question 2

Surf & Turf Foods Limited

Henry has provided further information relating to the meeting irregularity and the loan, about which Patrick has been complaining.

The meeting irregularity concerned Julia Smith's failure to disclose, at a previous board meeting, a personal interest that she had in a transaction decided on by that board meeting.

With regard to the loan, Surf & Turf Foods Limited has agreed to lend Cat Jones £13,500 to meet her costs of relocating from North Yorkshire to be nearer Surf & Turf Foods Limited's Head Office.

Advise Henry in connection with the following issues:

- (a) the consequences for both Julia Smith and Surf & Turf Foods Limited of Julia's failure to disclose, at the board meeting, a personal interest that she had in a transaction decided on by that board meeting;
(5 marks)
- (b) the validity of the decision made at that board meeting, if there were only three directors, including Julia, present;
(7 marks)
- (c) the proposal to make the loan to Cat Jones.
(8 marks)

(Total: 20 marks)

Question 3

Surf & Turf Foods Limited

Patrick Smith has now provided further details on the equity investment to be made by the current shareholders, by a private equity house, Batch Private Equity, and by Henry Brooker. The total additional investment will be as follows:

Patrick Smith	50,000 ordinary shares of £1 each 100,000 preference shares of £1 each
Julia Smith	40,000 ordinary shares of £1 each
Cat Jones	10,000 ordinary shares of £1 each
Batch Private Equity	150,000 ordinary shares of £1 each 200,000 preference shares of £1 each
Henry Brooker	50,000 ordinary shares of £1 each

As part of the investment, the existing shareholders will be paying up any outstanding sums due on their existing shareholdings.

The preference shares will have a nominal value of £1, will be non-voting, will be cumulative, and with a limit on the amount that can be received in a distribution, but will pay a cumulative fixed dividend of 3.4%. The preference shares will be purchased for £1.50 each. The ordinary shares will be purchased for £1 each.

Advise Surf & Turf Foods Limited with regard to:

- (a) the statutory requirements in relation to the allotment of the additional ordinary and preference shares as set out above;
- (b) the documents and procedural formalities which will be required to comply with the Companies Act 2006 in respect of such allotment of ordinary and preference shares.

(10 marks)

(15 marks)

(Total: 25 marks)

Question 4

Binders Limited

Binders Limited ('Binders') has received an offer to buy its freehold property (worth £290,000) for £220,000 from a local property developer, who has heard that Binders is in difficulties. The directors of Binders are contemplating accepting the offer, in order to pay off the outstanding loans to Bedford Bank plc and Essex Bank plc.

In addition, two of the directors of Binders, Thomas Mullins and Janet Yeo, believe that it should be possible to relocate the company and its business to a small leasehold office about a mile away from its present office. This, however, will increase overheads, because the rental payments will be higher than the interest charges saved by paying off company borrowing through the sale of the freehold property. They intend to continue to allow the company to trade as long as necessary, until orders pick up.

Advise Thomas Mullins and Janet Yeo with regard to:

- (a) the consequences of accepting the offer of £220,000 for the sale of the freehold property;

(8 marks)

- (b) any personal risks they could face, if they decide to continue to trade from new premises in anticipation of trade picking up.

(17 marks)

(Total: 25 marks)

End of Examination Paper