



**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**

**June 2022**

**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.
- You can use your own unmarked copy of the following designated statute book – ***Blackstone's Statutes on Company Law 2021-2022, 25<sup>th</sup> edition, Derek French, Oxford University Press, 2021.***
- 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.

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

**(25 marks)**
  
2. Explain the duties imposed on directors under sections 171 to 176 of the Companies Act 2006 and discuss how the duties may be enforced.  

**(25 marks)**
  
3. Critically analyse how the Companies Act 2006 imposes restrictions on a company entering into:
  - transactions with one of its directors or with someone connected with a director, or;
  - transactions in which a director has an interest.

**(25 marks)**
  
4. Advise on:
  - (a) the extent to which company directors' authority to allot shares is restricted under the Companies Act 2006;  

**(14 marks)**
  - (b) the process of the transfer of shares in a private company and how the transfer of shares can be restricted in a company's articles.  

**(11 marks)**

**(Total: 25 marks)**

## SECTION B

Answer at least one question from this section.

### Question 1

Alex and Lina have been running a farm livestock food distribution service for the last four years. The business is called AFL Foodstuffs and operates from premises just outside Bedford, which are leased from Lina. Both Alex and Lina contributed about £12,000 of capital to the business on start-up. They have tended, up to now, to share the management of the business as well as profits equally.

As the business is doing well, despite recent global circumstances, Alex and Lina now wish to take on another partner to invest in, and to help expand, the business. They have been approached by Magda who has experience in agricultural business management. Alex and Lina feel she would fit well into the business. They have been discussing how best to admit her to the partnership. They are also considering formalising the arrangements between the three of them, as they currently have no written partnership agreement. It would make sense, for example, to specify the management responsibilities of each partner, and to clarify how profits are to be shared. Alex would take on the role of senior partner as she has more experience.

Magda has indicated that she would be able to contribute up to £15,000 in additional capital. She is also offering to provide a van for business use.

Advise Alex and Lina on:

- (a) why the business structure currently used by Alex and Lina is an unlimited liability partnership;  
**(12 marks)**
  
- (b) the benefits of formalising, in a written partnership agreement, the business arrangements between Alex, Lina and Magda;  
**(8 marks)**
  
- (c) whether or not the van provided by Magda would be partnership property.  
**(5 marks)**

**(Total: 25 marks)**

**Turn over**

## Question 2

Amelia has been running a business as a sole trader for about two years, designing and selling greetings cards and home accessories (such as aprons and placemats) online. It has been very successful, and she has established a loyal client base. A recent valuation has indicated that the business is worth about £220,000.

Amelia has been looking into incorporating the business as a private limited company and taking on a couple of employees to help with packaging and keeping the accounts up to date. She has come to you for advice about, amongst other things, the process of incorporation. She is aware that certain documentation is required and that a company is required to have articles of association. Amelia will be both a shareholder and a director of the company. She is proposing to call the company 'Top Drawer Accessories'.

Advise Amelia:

- (a) on the steps to be taken to incorporate the business, as a private limited company, including in relation to the name; **(11 marks)**
  
- (b) on the nature and purpose of the articles of association; **(8 marks)**
  
- (c) how her liability as a shareholder will compare to that of a sole trader. **(6 marks)**

**(Total: 25 marks)**

### Question 3

Terry's Tacos Limited ('TTL') went into insolvent liquidation in late May 2022. It had been incorporated in 2015. Hana Bukhara has been appointed liquidator.

TTL ran a small chain of restaurants serving Mexican food. It offered a limited takeaway service. Its accounts to 31 December 2019 showed it was marginally solvent. It suffered however in mid-2020, with a decline in profits. The decision was taken to offer a broader takeaway service as a result of the pandemic. This was initially successful, but TTL was unable to meet the challenge from local competition. By about March 2021 it was suffering losses, which continued until it was put into liquidation.

At the time when TTL was put into liquidation, there were four directors: Aisha, Joshua (a qualified accountant), Kamal (who was the main chef), and Sam (aged 20 with little experience and who rarely attended Board meetings).

Hana has been given the following information about three issues that have come to light:

- A meeting of the full Board of Directors has not been held since January 2022, despite the serious downturn in business. Several suppliers had been threatening proceedings for non-payment of invoices since the end of 2021. Despite this, Joshua and Kamal managed to take holidays in Tenerife in early April 2022.
- In December 2020, a friend of Aisha's purchased one of TTL's vans from TTL for £5,500. It was shown to have a value of £12,000 in the December 2020 accounts.
- In June 2017, Kamal's father, Muhammed, had lent TTL £60,000, which was due to be repaid in 2027. However, Muhammed requested full repayment in August 2021. TTL paid him in September 2021.

Advise Hana on the action she could take in relation to the three issues outlined above.

**(25 marks)**

**Turn over**

#### **Question 4**

Get Outside Ltd ('GO') is a private limited company that was incorporated in June 2015. It is based in Oxfordshire and provides outdoor activities, including walking tours, canoeing, and visits to attractions, with a focus on ensuring accessibility for all at affordable prices. Business was inevitably quiet during the pandemic but is now booming.

The company has unamended Model Articles for Private Companies.

Merton Bank provided GO with an overdraft facility in July 2015 and took a fixed charge as security for this over GO's premises. The charge was registered appropriately. In addition, in June 2015, a local entrepreneur, David Field, made an unsecured loan of £150,000 to GO.

With business on the increase, GO now needs to expand its workforce and the fleet of vehicles it uses to transport clients. GO has asked David Field to increase his loan by £125,000. Having taken professional advice on this, David has provisionally agreed to do so, but now wishes to take security over the company's assets. His lawyers have suggested that he seek a fixed charge over the company's book debts, with a floating charge over the remainder of the company's undertaking. Both his original loan and the proposed additional loan would be secured.

Advise David about the nature and implications for him of the proposed charges.

***(25 marks)***

**End of the examination**

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