



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 2018-19, 22nd edition, Derek French, Oxford University Press, 2018.**
- 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.

* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

Question 1

Party Children Party Limited (PCP)

Assume that Jenny Collins has not yet stepped down from the company and that the potential investment by the Kempston Children's Care Institute (the 'Institute') has not yet occurred.

As a consequence of Jenny suffering from stress, she has been neglecting her duties. Unbeknown to the other directors, Jenny has failed to arrange payment of a number of trade creditors. These trade creditors are now pressing PCP for payment and, in the last five days, PCP has been served with statutory demands by two of them. PCP does not have sufficient funds to settle all its current creditors' claims. Martin has called an emergency meeting of the Board to discuss the consequences of failing to pay outstanding invoices.

In addition, Jenny's personal finances are also in a precarious state and her personal creditors are pushing for payment of her debts.

Advise PCP's board with regard to the following issues:

- (a) the liability of the directors to contribute to the assets of PCP in the event that PCP is unable to pay its trade creditors;

(14 marks)

- (b) the effect on Jenny's position as a director, if she were made bankrupt.

(9 marks)

(Total: 23 marks)

Question 2

Martin is now able to provide further details on the equity investment to be made by the current shareholders, the Institute and Professor Paul Long. The total additional investment will be as follows:

Investor	Additional shareholding to be acquired
Martin Taylor	50,000 ordinary shares of £1 each 100,000 preference shares of £1 each
Tracey Taylor	40,000 ordinary shares of £1 each
Helena Odegbune	10,000 ordinary shares of £1 each
Amel Farag	5,000 ordinary shares of £1 each
Kempston Children's Care Institute	150,000 ordinary shares of £1 each 200,000 preference shares of £1 each
Professor Paul Long	10,000 ordinary shares of £1 each

The preference shares will have a nominal value of £1, be non-voting, cumulative, with a limit on the amount that can be received in a distribution, but will pay a cumulative fixed dividend of 3.4% per annum. The preference shares will be issued for £2 each. The ordinary shares will be issued for £1 each.

Advise PCP with regard to:

- (a) the permissions that are required in order to allot the additional ordinary and preference shares as set out above;
- (b) the documents and procedural formalities that will be required in order to comply with the Companies Act 2006 and PCP's articles in respect of such allotment of ordinary and preference shares.

(10 marks)

(15 marks)

(Total: 25 marks)

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Question 3

Martin has now confirmed that Professor Paul Long will be appointed as a director of PCP and that he will be awarded a fixed-term service contract of a minimum period of five years.

In addition, Jenny Collins has confirmed that she will be transferring her shares in PCP to her daughter, Alison, as a gift.

Advise PCP with regard to:

- (a) what documents and formalities will be required in order to comply with the Companies Act 2006 and PCP's articles of association in respect of Professor Paul Long's appointment as a director and the award of his service contract;

(15 marks)

- (b) the tax implications for:

- (i) Professor Paul Long in respect of any salary and any dividends received by him from PCP;
- (ii) Jenny Collins, or her estate, if she gifts her shares to her daughter, Alison, rather than selling the shares to a third party.

(15 marks)

(Total: 30 marks)

Martin Taylor (commercial file)

Question 4

You have advised Martin that the business venture that he, Sophie and Krystal have entered into is a partnership, in accordance with section 1 of the Partnership Act 1890.

Martin is now considering continuing with the business on the assumption that Sophie and Krystal continue as they have been. We have advised Martin to formalise the partnership with a partnership agreement, to ensure that his interests are protected and to protect the business if Krystal decides to leave to establish a competing business in the same area.

Advise Martin:

- (a) on the provisions that should be included in the partnership agreement, to address the issues outlined above;

(13 marks)

- (b) in the alternative, if he wishes to dissolve the partnership, how it may be dissolved, its debts settled and its assets distributed.

(9 marks)

(Total: 22 marks)

End of Examination Paper

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