



## 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 2019-20, 23rd edition, edited by Derek French, Oxford University Press.**
- 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**

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## **Question 1**

### **Tait's Ice Cream.**

Grace Tait has now confirmed that she is currently rethinking her business relationship with Ian Bell, because she has established that Ian has not been devoting any time to Tait's Ice Cream business. Rather, Ian has instead been focusing solely on his private consultancy and has been using Tait's business equipment to do so.

Advise Grace with regard to the following issues:

- (a) the nature of the business enterprise she has entered into with Ian, and Grace's potential liability for any debts and/or obligations incurred by Ian in the name of the business;

**(13 marks)**

- (b) any claims that she could bring against Ian in respect of:

(i) his use of equipment owned by Tait's Ice Cream;

(ii) the fact that he has not devoted time to Tait's Ice Cream, focusing instead on his own consultancy.

**(10 marks)**

**(Total: 23 marks)**

**Turn over**

## Question 2

### Tait's Ice Cream Limited.

Grace Tait has now discontinued her business relationship with Ian Bell.

Grace Tait and Jane Hook will now be entering into a separate business venture concerned only with the production of ice cream through a new company.

The following additional information has been provided:

#### The Company

- The shelf company, Kempston Shelf Company 9836886F Limited (**Document 5**) (the Company) will be used as the vehicle for the new business.
- The Company's name will be changed to Tait's Ice Cream Limited.
- It will have an issued share capital of £155,000, comprising 155,000 fully paid ordinary shares of £1 each.
- Grace will invest £80,000 in exchange for 80,000 ordinary shares of £1 each and Jane will invest £75,000 in exchange for 75,000 ordinary shares of £1 each.
- It will adopt the Model Articles for private companies limited by shares (initially unamended).

#### Directors

Grace Tait and Jane Hook will be appointed directors of the Company.

#### Loan

Once established, the Company will enter into a loan agreement with Bedford Bank Plc for £50,000, to be secured by way of first fixed and floating charge over all the assets of the Company.

Advise Jane Hook with regard to the following issues:

- (a) the documents and formalities that will be required to comply with the Companies Act 2006 in respect of the allotment of the ordinary shares to her and to Grace Tait;

**(15 marks)**

- (b) the steps required in relation to the acceptance of the proposed loan and the provision of security from Bedford Bank Plc.

**(12 marks)**

**(Total: 27 marks)**

### **Question 3**

#### **Myddelton Estates Dairy Limited (MED).**

It has now been confirmed that Grace Tait will be making a separate investment in MED, distinct from her investment in Tait's Ice Cream Limited. The MED business will produce its own dairy products (but not ice cream), utilising equipment that Grace no longer requires. Grace has confirmed that the only asset held by MED is the Dairy.

The following additional information has also been provided:

#### **Director**

Grace Tait will be appointed a director of MED and will be awarded a fixed-term service contract of a minimum period of three years.

#### **Assets**

MED's most recent audited accounts show that it has net assets of £85,000. Following her appointment as a director of MED, Grace Tait will transfer assets (equipment worth approximately £20,000) in exchange for 20,000 fully paid ordinary shares of £1 each in MED.

Advise Grace Tait with regard to the following issues:

- (a) the documents and formalities that will be required to comply with the Companies Act 2006 in respect of her appointment as a director, including the award of her service contract;

**(15 marks)**

- (b) the transfer by Grace of her assets to MED.

**(15 marks)**

**(Total: 30 marks)**

**Turn over**

#### **Question 4**

On a separate matter, it transpires that Simon Rhind has been suffering from stress and has consequently been neglecting his duties both in the day-to-day running of the farm and in relation to MED. Unbeknown to the other directors of MED, Simon has failed to arrange payment of a number of suppliers of materials used to renovate the Dairy. These creditors are now pressing MED for payment, and in the last five days MED has been served with statutory demands by two of them for payment of £1,000 and £1,500 respectively. MED may not have sufficient funds to settle all of its current creditors' claims. An emergency meeting of the Board of MED has been called, to discuss the consequences of failing to pay outstanding invoices.

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

Advise MED with regard to the following issues:

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

**(12 marks)**

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

**(8 marks)**

**(Total: 20 marks)**

**End of Examination Paper**

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