



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 1 – COMPANY AND PARTNERSHIP LAW\*

**Time allowed: 3 hours plus 15 minutes' reading time**

#### Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper 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 carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- 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 2016-2017, 20th edition, Derek French, Oxford University Press, 2016.**
- 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** and the **LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

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**SECTION A**  
**(Answer at least one question from this section)**

1. Examine the distinctions between running a business through a private limited company, an unlimited partnership and a limited liability partnership, including the relative advantages and disadvantages of the different business media.

**(25 marks)**

2. The court in Adams v Cape Industries plc (1990) limited piercing the corporate veil to three situations. Critically discuss this statement.

**(25 marks)**

3. (a) Examine the significance of determining whether property is to be regarded as partnership property under partnership law.

**(14 marks)**

- (b) Explain how a retiring partner may continue to be liable for the debts of an unlimited partnership, and what she may do to limit such liability.

**(11 marks)**

**(Total: 25 marks)**

4. Explain:

- (a) the procedure that must be followed when transferring shares in a private limited company;

**(5 marks)**

- (b) what restrictions may be found in a company's articles of association on the transfer of shares in a private limited company to control outsiders joining the company as members;

**(6 marks)**

- (c) the circumstances in which a company director can face criminal liability for 'insider dealing', and the possible penalties.

**(14 marks)**

**(Total: 25 marks)**

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**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

Amit Mehta has been running a drinks distribution business since 2010 as a sole trader. He sells a range of soft drinks to a number of retail outlets, including cafes, in Buckinghamshire and Northamptonshire. He currently has five employees. The business has been successful, and profits have grown. Amit is looking to expand the business and wishes to purchase a lease on new, larger storage premises in Milton Keynes. He is also proposing to incorporate his business through a private limited company. Amit will pay all costs associated with registering the company. He is thinking of calling the company Amit's Drinks Supplies (Milton Keynes) Limited.

Amit will be a director and majority shareholder of the company. Once the company is incorporated, Amit will also seek a bank loan for the company to assist with expansion plans.

Assume that, before the proposed company is incorporated, Amit enters into a lease of the new premises, which he signs on behalf of the proposed company.

(a) Explain the potential issues in relation to this, and how Amit could protect himself from any personal liability.

**(12 marks)**

(b) Advise Amit on the issues arising from the proposed name of the company.

**(5 marks)**

(c) Explain the steps for registration of the company, and whether Amit can be reimbursed for any registration costs incurred.

**(8 marks)**

**(Total: 25 marks)**

## **Question 2**

Kempston Computer Services Limited ('the Company') is a company providing computer and network support services to the transport industry in the south of England. The Company's articles of association follow the Model Articles for private companies (without amendment).

In January 2017, the Company decided to expand its operations. It purchased, for £550,000, a large warehouse near the Company's existing premises. The vendor was Michael White. Michael is the civil partner of Stephen Brown, a director of the Company. Stephen spoke strongly in favour of the purchase of the warehouse.

In addition, to support the expansion of its business, the Company decided to appoint Patsy Underwood as an additional director of the Company, with a fixed-term, three-year service contract.

Helen Ryan, another of the Company's directors, now seeks your advice. She tells you that the planned expansion of the company's operations has failed to generate much new business. Consequently, the Company no longer needs the new warehouse which, following a downturn in the local property market, is now worth only £400,000. In addition, the Company wishes to remove Patsy from the board of directors. The board was unaware of Stephen's relationship with Michael when it agreed to purchase the warehouse.

Shareholders in the Company were never consulted about any of the expansion plans nor about the appointment of Patsy.

Advise the Company in respect of the purchase of the warehouse and the removal of Patsy.

**(25 marks)**

### Question 3

Formula Five Ltd ('FFL') is an Oxfordshire-based company producing components for the aviation industry. It has a board of five directors, all of whom own shares in the company.

FFL has an issued share capital of 400,000 ordinary £1 shares, which are all fully paid up. A recent valuation of FFL states that it is worth about £2.5 million. Its latest accounts showed distributable profits of £800,000. FFL has adopted the Model Articles for a private company, but it has excluded Model Article 14.

FFL has been looking for some external investment, in order to fund expansion plans, and has provisionally agreed the following:

- Innovation Plc, a venture capital company, will invest £800,000 in return for 3% non-voting cumulative preference shares entitled on a return of capital to receive only a sum equal to the amount paid up thereon.
- Max Notion, a current FFL director and shareholder, will invest a further £200,000 in return for additional ordinary £1 shares. These will rank equally with the existing ordinary shares.

One of FFL's directors, Fatima Iqbal, is opposed to the above. The other directors/shareholders have therefore proposed that FFL buy back Fatima's shares for £300,000, using distributable profits. Fatima has provisionally agreed to this.

Advise the board of FFL on the legal issues raised by the above proposals.

**(25 marks)**

#### **Question 4**

Ready Cakes Ltd ('Ready Cakes') is a company that produces ready-mix cake and pastry packs. It was incorporated in 2012, when it took an unsecured loan of £200,000 from Dara, the spouse of one of its directors. Ready Cakes has, however, been trading at a loss for some time, and its liabilities have steadily increased.

In August 2016, in order to raise some working capital, Giorgy Pavel, a director of Ready Cakes, arranged for a property owned by the company adjacent to its premises to be sold for £150,000. The purchaser then resold the property shortly afterwards following minimal renovations for £750,000.

In December 2016, Milton Flours Ltd, the main supplier of Ready Cakes' raw materials, contacted the company and said it was reluctant to continue supplying Ready Cakes, as it had heard that Ready Cakes was in financial difficulties. Giorgy managed to persuade Milton Flours to continue supplies.

In January 2017, following a demand for repayment from Dara, Ready Cakes repaid Dara's loan.

In addition, Milton Flours is now threatening to put Ready Cakes into liquidation, as it, Milton Flours, has not been paid for any supplies since March 2017.

Giorgy has been discussing matters with his sister, Yana. Yana claims that Giorgy is allowed, as a director of Ready Cakes, to put Ready Cakes into administration, and to appoint her, Yana, as the administrator of Ready Cakes. Yana further asserts that once it is in administration, neither Milton Flours, nor any other creditor, will be able to bring any proceedings against Ready Cakes.

(a) Advise Giorgy on Yana's assertions about putting the Company into administration.

**(13 marks)**

(b) Explain the action that an administrator could take in relation to the repayment of the loan to Dara and the sale of the property.

**(12 marks)**

**(Total: 25 marks)**

**End of Examination Paper**

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