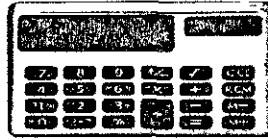


UNIVERSITY EXAMINATIONS



UNIVERSITEITSEKSAMENS

UNISA 
UNIVERSITY
OF SOUTH AFRICA

AUE1601

October/November 2016

LEGAL ASPECTS IN ACCOUNTANCY

Duration 2 Hours

100 Marks

EXAMINATION PANEL AS APPOINTED BY THE DEPARTMENT

Use of a non-programmable pocket calculator is permissible

Closed book examination

This examination question paper remains the property of the University of South Africa and may not be removed from the examination venue

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THIS PAPER CONSISTS OF **EIGHT (8)** PAGES

This paper consists of the following questions and main topics

QUESTION	MAIN TOPIC	MARKS
1.	Interpretation of various sections, audit requirement, voting, public interest score, consideration of director's financial interest in a matter	50
2.	Share issue, dividend distribution, rights and restricted functions of auditors, declaring a director delinquent, financial assistance to directors	<u>50</u>
		<u>100</u>

NOTE:

The main objective of the examination is to test a candidate's knowledge and ability to apply the study material, although the examiners will also take into account the candidate's ability to organise and present that knowledge in writing and according to an acceptable standard

[TURN OVER]

In this paper references to the Companies Act are to the Companies Act 71 of 2008, as amended and the Companies Regulations, of the Republic of South Africa

QUESTION 1

50 marks

You are an expert on the Companies Act. One of your responsibilities is to present training to junior staff members at the firm where you are employed.

Training session

During a training session at your firm the following worksheet was given to junior staff in order to test their knowledge on various sections of the Companies Act. They are required to complete the statements from 1.1.1 to 1.1.12 by matching the statements to the correct information given in (a) to (r).

1.1.1	A special resolution	a) Affinity
1.1.2	A private company is not required to appoint a company secretary (agree or disagree with this statement)	b) Non par value shares
1.1.3	A personal liability company	c) Must have a minimum of three incorporators
1.1.4	An ordinary resolution	d) Public
1.1.5	The can form part of the quorum at a directors meeting of a public company	e) Rehabilitated insolvent
1.1.6	A private company can only appoint a maximum of 12 directors (agree or disagree with this statement)	f) Par value shares
1.1.7	A non-profit company	g) Must have a minimum of one incorporator
1.1.8	A relationship by marriage is referred to as being related by	h) Private
1.1.9	Newly incorporated companies may not issue .	i) Company secretary
1.1.10	A may be appointed as a director of a company	j) Needs to be supported by at least 75% of the voting rights exercised on the resolution
1.1.11	The transferability of its shares is restricted by the Memorandum of Incorporation for a company	k) Agree

[TURN OVER]

1.1.12	The solvency and liquidity test must be applied when	l) Selling the greater part of a company's assets
		m) Needs to be supported by at least 50% of the voting rights exercised on the resolution
		n) Body corporate
		o) Consanguinity
		p) Disagree
		q) Independent non-executive chairman
		r) Issuing capitalisation shares

Background information on Margili

Margili Proprietary Limited ("Margili") was founded in 2015 by two sisters, Rose and Daisy Flower. The company designs and manufactures handbags from recycled materials.

Rose Flower, the managing director, has approached you for advice on various aspects of the *Companies Act*.

Requirement to be audited

Margili's annual financial statements are currently subject to an independent review as its public interest score is 95. The shareholders would like to make it a requirement that the annual financial statements be audited on an annual basis. Rose has requested you to provide her with more information on including a clause in the Memorandum of Incorporation which requires that Margili should have its annual financial statements audited annually. Thus, the Memorandum of Incorporation will have to be amended in terms of the *Companies Act*.

Audit committee

Rose would like an audit committee to be established.

The following individuals are being considered for appointment as members of the audit committee:

Gardenia Green – the company secretary

Iris Flower – a qualified chartered accountant (SA) who is the daughter of Rose Flower

Daisy Flower – the financial director who heads up the finance department

Freesia Plant – an independent executive director who is a retired chief financial officer

Director's possible financial interest in a matter

Daisy Flower, the financial director, has been informed by her son, Reed, that if a contract between Margili and Neeb Hide (Pty) Ltd ("Neeb") gets approved, he stands to receive a commission of R100 000. Reed is the sales manager at Neeb. Rose has requested more information with regard to this matter which may need to be considered at a meeting of the board.

[TURN OVER]

REQUIRED	Marks
<p>1.1 With reference to the Training session information</p> <p>Complete the statements from 1 1 1 to 1 1 12 by matching the statements to the correct information given in (a) to (r) Only one (1) option is correct for each question</p>	<p>(12)</p>
<p>1.2 With reference to the Requirement to be audited information</p> <p>1.2.1 Describe the requirements that must be fulfilled in order to add the clause to the Memorandum of Incorporation (MOI) You must answer the question under the following headings</p> <p>1 2 1 1 Responsibility for proposing the amendment and authorisation required (2)</p> <p>1 2 1 2 Requirements regarding notices for the meeting (5)</p> <p>1 2 1 3 Quorum requirements for the meeting (2)</p> <p>1 2 1 4 Voting rights at the meeting (2)</p> <p>1 2 1 5 Secretarial requirements (2)</p> <p>Communication skills: Clarity of expression (1)</p>	
<p>1.2.2. Explain the difference between “voting by show of hands” and “polling” (2)</p>	
<p>1.2.3 List the three (3) thresholds (categories) set by the Regulations for public interest scores (3)</p>	
<p>1.3 With reference to the Audit committee information</p> <p>State whether or not each of the four (4) proposed individuals may be appointed as members of the audit committee Give a reason for each answer (10)</p> <p>Communication skills: Clarity of expression (1)</p>	
<p>1.4 With reference to the Director’s possible financial interest in a matter information</p> <p>1.4.1 State whether or not Daisy is considered to have a financial interest in the matter Give a reason for your answer (2)</p> <p>1.4.2 Describe the disclosures required by Daisy, as a director of Margili, in terms of Section 75 of the Companies Act Do not include details of meetings, for example notice, quorums etcetera (6)</p>	

[TURN OVER]

QUESTION 2

50 marks

Background information

Bat Securities (Pty) Ltd ("Bat") is a company that specialises in providing security services to residential security estates throughout South Africa. Bat develops and markets its own security software. You are the company secretary. The directors of Bat are Rob Barley, Rama Banana and Annie Led (a newly appointed director).

The following is an extract from Bat's statement of financial position for the year ended 31 August 2016.

	2016
	R
Assets	
Total non-current assets	8 000 000
Total current assets	<u>4 000 000</u>
	<u>12 000 000</u>
Liabilities	
Total non-current liabilities	12 000 000
Total current liabilities	<u>10 000 000</u>
	<u>22 000 000</u>

Proposed share issue

The chief executive officer, Rob Barley, needs to raise additional finance of R 2 000 000 for a large upcoming project. This amount is to be raised by issuing an additional 100 000 ordinary shares. The shares are to be offered to the existing directors and shareholders.

Share Capital (before additional share issue)

Authorised

Ordinary shares – 100 000 of no par value

Issued

Ordinary shares – 100 000 of no par value

The existing shareholding in Bat is as follows:

60 000 shares held by private investors (60% of the general voting rights)

40 000 shares held by directors (40% of the general voting rights)

Dividend distribution

Rob Barley proposed a distribution of a portion of the retained earnings of the company to the shareholders (dividend distribution). The distribution was duly authorised. He has requested advice on the legality of the proposed dividend distribution.

[TURN OVER]

Rights of auditors

Rob Barley has advised you that he is not going to inform the external auditor about an upcoming shareholders' meeting and they will also not be permitted to attend this meeting. He has also informed you that the external auditors will not be allowed to attend the inventory count at year-end. Rob has instructed the financial manager that she is not allowed, under any circumstances, to permit the external auditors to have access to a particular debtor's file. Rob is aware that auditors have certain rights and restricted functions in terms of section 93 of the Companies Act and is interested to find out if he will be contravening any of the requirements by his intended actions.

Application to declare a director delinquent

Rob Barley has requested you to provide him with more information on declaring a director delinquent. The reason for this is that he would like to make an application to declare Annie Led as delinquent in terms of the Companies Act. He is worried about a number of her decisions and actions as a director.

Granting of a loan

Ana Banana, who is the adopted daughter of Rama Banana, applied for a loan of R1 000 000 from Bat. The money was used to invest in a successful retail business. The resolution was adopted on 1 July 2016 and the loan was granted as the board was satisfied that all the conditions and restrictions as set out in the Memorandum of Incorporation had been fulfilled. Since Bat's incorporation a loan of this type has never been approved and granted. A notice of the adopted resolution was sent out to all shareholders on 29 July 2016.

REQUIRED

Marks

- 2.1 With reference to the **Proposed share issue** information
- 2.1.1 **Explain** what **authorisation** is required for the share issue (3)
- 2.1.2 **Describe** the rights of the **existing shareholders** with respect to the proposed share issue. Your answer must **include** the **provisions** per the **Companies Act** and the **number of shares** that can be taken up by the **private investors** (9)
- Communication skills:** Clarity of expression (1)

[TURN OVER]

REQUIRED (continues)

Marks

- 2.2** With reference to the **Dividend distribution** and **Background information**
- 2.2.1** Describe the **Companies Act requirements** that need to be considered when proposing a **dividend distribution** (4)
- 2.2.2** State whether or not the proposed dividend distribution is considered to be **legal** in terms of the Companies Act requirements **Give reasons** for your answer (6)
- 2.3** With reference to the **Rights of auditors** information
- 2.3.1** Describe the **rights of auditors** in terms of the Companies Act (4)
- 2.3.2** For each right, **identify** the matters from the given information that will result in non-compliance with the respective right (6)

Present your answer in the following format.

2.3.1 Rights of auditors (1 mark each)	2.3.2 Non-compliance of rights of auditor (application of information given) (1.5 marks each)

Communication skills: Answer presented in tabular format (1)

- 2.4.** With reference to the **Application to declare a director delinquent** and **Background information**
- 2.4.1** Advise who has the **authority** to declare a director delinquent or under probation (1)
- 2.4.2** Mention **three (3)** parties who **may apply** for a director to be declared delinquent (3)

[TURN OVER]

REQUIRED (continued)

Marks

2.5 With reference to the **Granting of a loan and Background information**

2.5.1 Describe four (4) Companies Act requirements that need to be considered when **granting financial assistance** to a person related to a director **Do not** include details of meetings, for example notice, quorums, etcetera **(4)**

2.5.2 For each requirement, discuss the information that will be considered in determining the legality of the financial assistance granted **(6)**

Present your answer in the following format:

Note: The following is provided as an example of what is required and no marks will be awarded for repeating the information in the example

2.5.1 Requirement per the Companies Act (1 mark each)	2.5.2 Information to be considered (1.5 marks each)
Any conditions or restrictions in the granting of financial assistance set out in the Memorandum of Incorporation must be satisfied	The board was satisfied that all the conditions and restrictions as set out in the Memorandum of Incorporation had been fulfilled

Communication skills: Answer presented in tabular format **(1)**

2.5.3 Based on your answers presented in the table state whether or not the loan granted was legal **(1)**