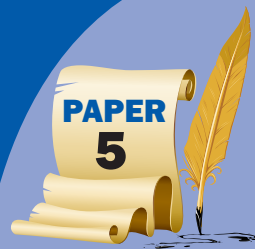


BUSINESS AND COMPANY LAW



OVERALL AIM

To equip the learner with knowledge and skills essential for application of legal principles governing the business environment in Uganda

LEARNING OUTCOMES

On completion of this course, the learners should be able to:

	Learning outcomes	K	C	A	An	S	E
1.	Explain the general principles of law	✓					
2.	Discuss the laws governing contracts and persons		✓				
3.	Explain the principles of the law of agency		✓				
4.	Explain the general principles of the law of trusts		✓				
5.	Explain the legal relationships between employers and employees		✓				
6.	Describe the formation, operation and termination of partnerships and companies		✓				
7.	Apply the laws governing negotiable instruments			✓			
8.	Identify the various legal forms of insolvency	✓					
9.	Raise and resolve issues			✓			

LEVEL OF ASSESSMENT

The examination will test knowledge, comprehension and application of the principles of business and company laws to real life business situations

EXAMINATION STRUCTURE

There will be a three-hour examination made up of sections A and B. Section A will comprise 20 compulsory multiple-choice questions of 20 marks. Section B will comprise five questions of 20 marks each, of which the candidate will be required to attempt any four.

DETAILED SYLLABUS

A. GENERAL PRINCIPLES OF LAW IN UGANDA

1. Role, nature and classification of law
2. Sources of law in Uganda
3. Legal systems and administration of law:
 - (a) Types of courts in Uganda
 - (b) Criminal versus civil law

B. LAW OF TORTS

1. Definition
2. Distinction between tort and contract; tort and crime
3. Elements of tort:
 - (a) Legal damage
 - (b) Injuria sine damnum
 - (c) Damnum sine injuria: ordinary trade competition, lawful use of one's property
4. Malice in tort:
 - (a) Malicious prosecution
 - (b) Malicious falsehood
5. Capacity of parties to sue and be sued:
 - (a) The government
 - (b) Foreign sovereigns and diplomats
 - (c) Corporations
 - (d) Trade unions
 - (e) Married women
 - (f) Infants and minors
 - (g) Liability of parents
 - (h) Judges and magistrates
 - (i) Persons of unsound mind
6. General defences in tort:
 - (a) Volenti non fit injuria
 - (b) Necessity
 - (c) Inevitable accident
 - (d) Act of God

- (e) Statutory authority
- (f) Mistake
- 7. Joint tortfeasors:
 - (a) Agency
 - (b) Joint action
 - (c) Vicarious liability:
 - (i) Basis
 - (ii) Definition of servant
 - (iii) Independent contractor; exceptions to the defence
- 8. Limitation/ survival of actions
- 9. Trespass:
 - (a) Trespass to persons (assault, battery; defences available); false imprisonment/ imprisonment without knowledge
 - (b) Trespass to land (continuing trespass, trespass ab initio, remedies and defences)
 - (c) Trespass to goods (elements, trespass to chattels or goods, conversion, things found on land, distinction between trespass and conversion, who can sue, remedies)
- 10. Negligence:
 - (a) Meaning
 - (b) Elements
 - (c) Standard of care
 - (d) Duty of care
 - (e) Contributory negligence
 - (f) Liability to children
 - (g) Negligent misstatement
- 11. Nuisance, including public nuisance, private nuisance, malice, who can sue and remedies and defences

C. LAW OF CONTRACT

- 1. General principles of the law of contract:
 - (a) Definition of a contract
 - (b) Classes of contracts
 - (c) Essential elements of a valid contract: Offer, acceptance, consideration, exceptions

- (d) Formation of contracts
- 2. Privity of contract:
 - (a) The general principle of privity of contract
 - (b) Exceptions of the general rule of privity of contract
- 3. Forms and terms of a contract:
 - (a) Forms in which a contract can be made
 - (b) Major and minor terms of a contract
 - (c) Contents of a contract
 - (d) Exclusion clauses
- 4. Standard form contracts
- 5. Factors that vitiate a contract:
 - (a) Mistake: Meaning, types of mistakes
 - (b) Misrepresentation: Meaning and types of misrepresentation; fraudulent misrepresentation
 - (c) Duress and undue influence
- 6. Illegal, void and voidable contracts:
 - (a) Differences between illegal and void contracts
 - (b) Effect of voidable contracts
- 7. Assignment: Meaning and forms of assignment
- 8. Discharge and frustration of contracts: Meaning and ways in which a contract can be discharged
- 9. Remedies and limitations of actions:
 - (a) Remedies for breach of contract
 - (b) Time limit for contractual actions
 - (c) Exceptions to limitation of contractual actions

D. SALE OF GOODS

- 1. Nature of the contract
- 2. Formalities of the contract
- 3. Passing of property
- 4. Terms of the contract
- 5. Implied terms by statute
- 6. Rights and duties of the parties

E. LAW OF AGENCY

1. Introduction to the law of agency:
 - (a) Meaning of agency
 - (b) Nature of agency
 - (c) Purpose of agency law
2. Formation and creation of principal-agent relationship
3. Types of agents
4. Duties and rights of an agent
5. Duties and rights of a principal
6. Rules governing the relationship between the principal and third parties
7. General rules governing the relationship between the agent and third parties and exceptions to the rules
8. Circumstances under which an agency relationship can be terminated

F. LAW OF TRUST

1. Meaning and types of trusts
2. Parties to a trust
3. Circumstances under which a trust can be created
4. Appointment, discharge, duties and liabilities of trustees:
 - (a) Requirements for appointment as a trustee
 - (b) Circumstances under which a trustee can be discharged
 - (c) Duties and liabilities of trustees
5. Termination of a trust

G. EMPLOYMENT LAW

1. Contract of employment:
 - (a) Contents of a contract of employment
 - (b) Contract of service versus contract for services
2. Duties and rights of employees
3. Obligations of an employer to employees
4. Discrimination:
 - (a) Types of discrimination
 - (b) Statutory provisions against discrimination

5. Termination of contract of employment:
 - (a) Circumstances under which a contract of employment can be terminated
 - (b) Circumstances under which termination may be unlawful

H. LAW OF PARTNERSHIPS

1. Meaning, types and formation of partnership
2. Relationship of partners; duties and rights
3. Obligations of partners to third parties
4. Liability of partners
5. Termination of partnerships

I. NEGOTIABLE INSTRUMENTS

1. Meaning and characteristics
2. Types:
 - (a) Cheques:
 - (i) Meaning, nature and types
 - (ii) Parties to a cheque, their rights and obligations
 - (iii) Cheque crossings and endorsements
 - (iv) Dishonour and discharge
 - (v) Forgeries
 - (b) Bills of exchange:
 - (i) Meaning, nature and types
 - (ii) Parties to a bill of exchange; their rights and obligations
 - (iii) Acceptance, negotiation, endorsement, dishonour, discharge, forgeries

J. COOPERATIVES

1. The cooperative identity- definition, universal cooperative principles and values
2. Cooperative formation
3. Registration of cooperative societies
 - (a) Conditions of registration
 - (b) Application for registration
 - (c) Registration on probation and permanent
 - (d) Conditions

- (e) Pre-registration contracts
 - (f) Cancellation of registration
 - (g) Amendment of the byelaws of a registered society
 - (h) Provisions regarding name of a registered society
 - (i) Evidence of registration
4. Cooperative governance organs
 - (a) Rights and liabilities of members
 - (b) Qualifications for membership
 - (c) Restriction on shareholding
 - (d) Restriction on membership
 - (e) Rights and obligations of members
 - (f) Restriction on membership
 - (g) Rights and obligations of members
 - (h) Votes of members
 - (i) Leadership and management of a society
 - (j) Supervisory board
 - (k) Restrictions on transfer of share or interest
 5. Duties of registered societies
 - (a) Address of society
 - (b) Copy of the Act, regulations, byelaws, etc. to be open for inspection
 - (c) Records management of a registered society
 - (d) Audit, annual returns and accounts
 - (e) Qualifications of auditors
 - (f) Estimates and expenditure
 - (g) Voluntary amalgamation of societies
 - (h) Transfer of assets and liabilities to another society
 - (i) Voluntary division of a society
 6. Duties of the board and privileges of registered societies
 - (a) Societies to be bodies corporate
 - (b) Board of Directors of the Uganda Cooperative Alliance Ltd.
 - (c) Byelaws to bind members
 - (d) Contract with members to dispose of produce

- (e) Imposition of fines upon members
 - (f) Charge on agricultural produce and certain other materials and articles
 - (g) Charge and setoff in respect of shares or interest of members
 - (h) Share or interest not liable to attachment
 - (i) Liability of past member
 - (j) Liability of estate of deceased member
 - (k) Transfer of interest on death of member
 - (l) Registers and books of societies and copies of them shall be received in evidence in certain circumstances
 - (m) Restriction on the production of a society's books
 - (n) Power to exempt from duty or tax
7. Property and funds of registered societies
- (a) Restrictions on loans
 - (b) Restrictions on borrowing
 - (c) Restrictions on other transactions with nonmembers
 - (d) Investment of funds
 - (e) Dividend or bonus
 - (f) Reserve and provident fund
 - (g) Distribution of net balance
 - (h) Contribution to education fund
 - (i) Cooperative member education
 - (j) Audit and Supervision Fund
8. Supervision and inspection of affairs
- (a) Production of cash and books of a registered society
 - (b) Ad hoc committee of inquiry

K. COMPANY LAW

- 1. Meaning of company
- 2. Incorporation and classification of companies:
 - (a) Types of companies
 - (b) Public versus private companies
 - (c) Registration procedure

- (d) Importance of certificate of incorporation
- 3. Commencement of business; requirements before commencement of business
- 4. Formation of a company:
 - (a) Meaning and duties of promoters
 - (b) Rules governing pre-incorporation contracts
 - (c) Remuneration of promoters
 - (d) Remedies for pre-incorporation acts of promoters
 - (e) Characteristics of a company
 - (f) The veil of incorporation; circumstances under which the veil of incorporation may be lifted
 - (g) The ultra vires doctrine: NB Please note that this doctrine was outlawed in Uganda.
- 5. Memorandum of association:
 - (a) Importance and contents
 - (b) Alteration; requirements for and effects of alteration
- 6. Articles of association:
 - (a) Importance and contents
 - (b) Alteration; requirements for and effects of alteration
 - (c) Table A of The Companies Act, 2012
- 7. Membership:
 - (a) Eligibility for membership
 - (b) Process of becoming a member
 - (c) Termination of membership
 - (d) Register of members, its contents and importance
- 8. Prospectus:
 - (a) Meaning, nature and contents
 - (b) Ways of how liabilities may arise as a result of issuance of a prospectus
 - (c) Remedies for parties who may be aggrieved as a result of issuance of a prospectus

9. Shares and share capital:
 - (a) Meaning and types
 - (b) Ways of raising share capital: Offers, underwriting, brokerage
 - (c) Liability for misrepresentation and non-disclosure
10. Issue of shares:
 - (a) Notice
 - (b) Application
 - (c) Allotment; rules governing the allotment of shares; restrictions on allotment
 - (d) Eligibility for application and allotment
 - (e) Powers under issue of shares
 - (f) Consideration
 - (g) Pre-emption rights
 - (h) Issue of shares at a discount and at a premium
 - (i) Share certificate
11. Transfer of shares:
 - (a) Rules governing calls on and transfer of shares
 - (b) Circumstances under which transfer of shares can be restricted
 - (c) Meaning of 'mortgage', 'forfeiture', 'surrender', 'conversion'
 - (d) Liability for misrepresentation and non-disclosure in a transaction of transfer of shares
12. Annual returns
13. Class rights and variation of class rights
14. Alteration and reduction of share capital; reasons why reduction of share capital is prohibited
15. Purchase of own shares
16. Debentures:
 - (a) Definition and classification of debentures.
 - (b) Manner in which debentures can be issued and transferred.

- (c) Trust deed:
 - (i) Meaning
 - (ii) Advantages
- (d) Priority of payment of debenture holders
- (e) Types of charges
- (f) Remedies for debenture holders

17. Dividends:

- (a) Meaning
- (b) Declaration and payment
- (c) Unlawful distribution of dividends
- (d) Capitalisation of profits

18. Meetings:

- (a) Statutory meeting:
 - (i) Meaning
 - (ii) Importance of holding a statutory meeting
- (b) Annual general meeting
 - (i) Meaning
 - (ii) Importance
 - (iii) Business to be transacted
- (c) Other meetings
- (d) Notices of meetings; statutory requirements for notices of different meetings
- (e) Proceedings at general meetings; legal requirements of conducting a general meeting

19. Directors:

- (a) Appointment:
 - (i) Process of appointment
 - (ii) Qualification for appointment
- (b) Publicity requirements; circumstances under which directors are supposed to be publicised
- (c) Powers, duties and responsibilities of directors; circumstances under which a director can be held liable personally

- (d) (d) Remuneration; circumstances under directors are remunerated
- (e) Directors' meetings; roles of directors in their meeting
- (f) Directors' interest in shares or debentures; circumstances under which directors can have interest in shares or debentures
- (g) Disqualification and removal of directors

20. Company secretary:

- (a) Appointment, duties and powers of a company secretary
- (b) Contents of the register of directors and secretaries

21. Accounts and company auditors:

- (a) Financial statements
- (b) Meaning of an auditor
- (c) Directors' duties
- (d) Auditor's responsibilities
- (e) Auditor's report
- (f) Circumstances under which an auditor can be personally liable for damages arising out of their report
- (g) Appointment, resignation and removal, qualifications, rights and duties, remuneration, liability for negligence of auditors

22. Majority rule, minority protection and investigations:

- (a) Rule in Foss v Harbottle
- (b) Protection of minority shareholders under common law and case law
- (c) Circumstances under which shareholders can bring action for or against the company.
- (d) Circumstances under which company investigations and inspections can be carried out
- (e) The rule in Turquand case

23. Corporate insolvency/ winding up:

- (a) Meaning of the term winding up
- (b) Ways of winding up
- (c) Grounds for winding up
- (d) Petition for winding up

- (e) Procedure for winding up
- (f) Commencement and completion
- (g) Legal consequences of winding up
- (h) Priority in the apportionment of proceeds from winding up

24. The liquidator:

- (a) Meaning of liquidator
- (b) Appointment and removal
- (c) Remuneration
- (d) Control over a liquidator
- (e) Rights, powers and duties of a liquidator
- (f) Ways in which a liquidator may be liable for transactions made during winding up

REFERENCES

1. ICPAU, Business and Company Law: Kampala.
2. Bakibinga D.J., 2022. Company Law in East Africa, Notion Press.
3. Bakibinga D.J, 2006. Equity & Trusts in Uganda, 2nd Edition, Kampala: Professional Books Publishers.
4. Bakibinga D.J., 2013. Law of Contract in Uganda, 2nd Edition, Kampala: Fountain Publishers.
5. Bakibinga D.J., 2011. Partnership Law in Uganda, 2nd Edition, Kampala: Professional Books Publishers.
6. Hussain A., 2003. General Principles and Commercial Law of Kenya, Nairobi: East African Educational Publishers Ltd.
7. Government of Uganda, by Uganda Printing and Publishing Corporation:
 - (a) Companies Act, 2012
 - (b) Employment Act, 2006
 - (c) Insolvency (Amendment) Act, 2022
 - (d) Contracts Act, 2010
 - (e) Partnership Act, 2010
 - (f) Sale of Goods and Supply of Services Act, 2017