

# BUSINESS LAW - PAPER 4

## **OVERALL AIM**

To enable the learner acquire knowledge and understanding of the legal framework governing the business environment in Uganda

## **LEARNING OUTCOMES**

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

1. Explain the general principles of the Ugandan law
2. Explain the general principles of the law of contract
3. Describe how companies are formed
4. Discuss the roles and responsibilities of the officers of a company
5. Identify the various legal forms of insolvency
6. Demonstrate an understanding of the legal relationships between employers and employees
7. Appreciate the principles of the law of agency
8. Describe the formation, operation and termination of partnerships
9. Explain the general principles of the law of trusts
10. Discuss ethical issues in all business relationships

## **LEVEL OF ASSESSMENT**

The examination will test knowledge, comprehension and application of law to real life case scenarios.



## **EXAMINATIONS STRUCTURE**

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

## **DETAILED SYLLABUS**

### **A. GENERAL PRINCIPLES OF UGANDAN LAW**

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

### **B.**

### **C. THE LAW OF CONTRACT**

1. General principles of the law of contract:
  - (a) Define a contract
  - (b) Classes of contracts
  - (c) Essential elements of a valid contract
  - (d) Formation of a contract
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
4. Standard form contracts: meaning of a standard form contract
5. Mistake:
  - (a) Meaning
  - (b) Types of mistakes
6. Misrepresentation:
  - (a) Meaning of misrepresentation



- (b) Types of misrepresentation
- 7. Duress versus undue influence
- 8. Illegal, void and voidable contracts:
  - (a) Differences between illegal and void contracts
  - (b) Effect of voidable contracts
- 9. Assignment:
  - (a) Definition
  - (b) Forms of assignment
- 10. Discharge of contracts:
  - (a) Meaning
  - (b) Ways in which a contract can be discharged
- 11. 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. THE LAW OF AGENCY**

- 1. Introduction to law of agency:
  - (a) Definition of agency
  - (b) Nature of agency
  - (c) Purpose of agency law
  - (d) Creation of agency relationship
- 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

#### **E. THE LAW OF TRUST**

- 1. Trusts:
  - (a) Definition



- (b) Types
- 2. Parties of a trust
- 3. Circumstances under which a trust can be created
- 4. Appointment, discharge, duties and liabilities of trustees:
  - (a) Requirements for being appointed as a trustee
  - (b) Circumstances under which a trustee can be discharged
  - (c) Duties and liabilities of trustees
- 5. Termination of a trust

## **F. 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

## **G. THE LAW OF PARTNERSHIPS**

- 1. Definition and types of partnerships.
- 2. Formation of partnerships.
- 3. The relationship of partners; duties and rights
- 4. Obligations of partners to third parties
- 5. Termination of partnerships

## **H. COMPANY LAW**

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



- (d) Procedure of registration
- (e) Importance of the certificate of incorporation
- 3. Commencement of business; requirements before commencement of business
- 4. Characteristics of a company
- 5. The veil of incorporation; circumstances under which the veil of incorporation may be lifted
- 6. The ultra vires doctrine

## **I. PROMOTION AND FORMATION OF COMPANIES**

- 1. Promoters:
  - (a) Definition
  - (b) Duties of a promoter
  - (c) Remedies for pre-incorporation acts of promoters
  - (d) Circumstances under which promoters are remunerated
  - (e) Rules governing pre-incorporation contracts
- 2. Memorandum of association:
  - (a) Importance and contents of a memorandum of association
  - (b) Requirements for altering a memorandum of association
  - (c) Effect of alteration of a memorandum of association
- 3. Articles of association:
  - (a) Importance and contents of articles of association
  - (b) Requirements for altering articles of association
  - (c) Effect of alteration of articles of association

## **J. SHARE CAPITAL**

- 1. Meaning and types of share capital
- 2. Raising share capital:
  - (a) Ways of raising share capital:
    - (i) Offers
    - (ii) Underwriting
    - (iii) Brokerage
  - (b) Liability for misrepresentation and non-disclosure
  - (c) Transfer of shares
  - (d) Parties liable for misrepresentation and non-disclosure in transaction of transfer of shares



3. 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 issuance of a prospectus
4. Allotment of shares: application, notice, power, pre-emption rights, considerations, issues of shares at a discount and at a premium, restrictions on allotment:
  - (a) How shares are allotted
  - (b) Parties eligible for application for allotment
  - (c) Pre-emption rights
  - (d) Circumstances under which shares can be issued at a discount and at a premium
  - (e) Rules governing the allotment of shares
5. Shares: certificates:
  - (a) Types of shares
  - (b) Contents of share certificate
  - (c) Rules governing calls on and transfer of shares
  - (d) Circumstances under which transfer of shares can be restricted
  - (e) Meaning of 'mortgage', 'forfeiture', 'surrender', 'conversion'
  - (f) Contents of register of members
  - (g) Features of annual returns
  - (h) Meaning of 'share warrant'
  - (i) Class rights and variation of class rights
  - (j) Alteration and reduction of capital
  - (k) Reasons why reduction of share capital is prohibited
  - (l) Purchase of own shares

## **K. DEBENTURES**

1. Definition and classification of debentures.
2. Manner in which debentures can be issued and transferred.
3. Trust deed:
  - (a) Meaning
  - (b) Advantages
4. Priority of payment of debenture holders



5. Types of charges
6. Remedies for debenture holders

## **L. MEMBERSHIP**

1. Eligibility for membership
2. Process of becoming a member
3. Termination of membership
4. Register of members and its importance
5. Annual return; importance and contents

## **M. MEETINGS**

1. Statutory meeting; importance of holding a statutory meeting
2. Annual general meeting; importance; matters that must be considered
3. Other meetings
4. Notices of meetings; statutory requirements for notices of different meetings
5. Proceedings at general meetings; legal requirements of conducting a general meeting

## **N. DIRECTORS AND SECRETARY**

### **DIRECTORS:**

1. Appointment:
  - (a) Process of appointment
  - (b) Qualification for appointment
2. Publicity requirements; circumstances under which directors are supposed to be publicised
3. Powers, duties and responsibilities of directors; circumstances under which a director can be held liable personally
4. Remuneration; circumstances under directors are remunerated
5. Directors' meetings; roles of directors in their meeting
6. Directors' interest in shares or debentures; circumstances under which directors can have interest in shares or debentures
7. Disqualification and removal of directors

### **COMPANY SECRETARY:**

1. The Company Secretary; duties and powers
2. Contents of the register of directors and secretaries

## **O. ACCOUNTS (FINANCIAL STATEMENTS) AND COMPANY AUDITOR**

1. Accounts (Financial Statements):
  - (a) Meaning of an auditor



- (b) Types of accounts (financial statements)
  - (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 his report
2. Auditors:
- (a) Appointment
  - (b) Resignation and removal
  - (c) Qualifications
  - (d) Rights and duties
  - (e) Remuneration
  - (f) Liability (negligence under common law, civil and criminal liability)

## **P. DIVIDENDS**

1. Declaration and payment.
- (a) Meaning of dividend
  - (b) Declaration and payment
2. Unlawful distribution of dividends
3. Capitalisation of profits

## **Q. CORPORATE INSOLVENCY**

1. Winding up:
- (a) Meaning of the term 'winding up'
  - (b) Ways of winding up
  - (c) Grounds for winding up
  - (d) Parties who can qualify to 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
2. 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

## **R. MAJORITY RULE, MINORITY PROTECTION, AND INVESTIGATIONS**

1. The rule in Foss v Harbottle:
  - (a) Explanation of the rule
  - (b) How common law and case law protect the minority shareholders action by shareholders
  - (c) Circumstances under which shareholders can bring action for or against the company.
2. Statutory protection of the minority.
3. Circumstances under which company investigations and inspections can be carried out

## **ETHICAL ISSUES**

1. Ethical issues in business relationships
2. Insider dealing:
  - (a) Meaning of 'insider dealing'
  - (b) Parties liable for offences/irregularities in insider dealing
3. Solutions to ethical issues

## **REFERENCES**

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2. Bakibinga D.J (2004), Law of Contract in Uganda, Fountain Publishers Kampala, Uganda.
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5. Ogola John Joseph (2011), Business Law, Focus Publications Ltd, Nairobi, Kenya.
6. Government of Uganda (2006), Employment Act, Government of Uganda. Kampala, Uganda.

