

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2007

TITLE OF PAPER : COMPANY LAW AND PARTNERSHIPS

COURSE CODE : L 303/L502

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- 1. ANSWER ANY FOUR (4) QUESTIONS .**
- 2. CANDIDATES MUST ATTEMPT AT LEAST ONE PROBLEM-TYPE QUESTION.**

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR TO DO SO.

QUESTION 1

(a) The articles of association of Vuvu (Pty) Ltd appoint Mr. Zwane as the company's legal representative, and provide that he should act in this capacity at the usual recommended tariff. Five years later, the company ceases to make use of Mr. Zwane's legal services who now wishes to sue Vuvu (Pty) Ltd. for breach of contract.

Advise him on his chances of success in an action against the company.

[15 marks]

(b) Discuss the three legal relationships arising from the constitution of a company.

[10 marks]

[25 MARKS]

QUESTION 2

What are pre-incorporation contracts? Critically examine the position of the law relating to these contracts in Swaziland, comparing it to that obtaining in South Africa.

[25 MARKS]

QUESTION 3

Siza and Vuka have operated a small manufacturing partnership in Manzini for the past the years. Owing to their incredible success, they have established two other plants at Siteki and Mhlume respectively. The net worth of all three plants is now E950, 000.00.

On account of the potential of their business, the two partners are now desirous of incorporating a public company to take over their businesses. They also intend to buy a farm for the rearing of cattle, with the ultimate goal of diversifying into the meat industry.

Advise the partners on the steps they must take to incorporate their company. You are also expected to explain to them the rationale behind the specification of certain statutory requirements which must be met before a newly incorporated company may commence business.

[25 MARKS]

QUESTION 4

(i) Explain the functions of a company prospectus.

(10 marks)

(ii) Explain and illustrate the legal remedies available against a company promoter in breach of his fiduciary duties.

(15 marks)

[25 MARKS]

QUESTION 5

It has been said that the Ultra Vires Doctrine is domesticated in memorandum jurisdiction, although even in these jurisdictions it is now being altered. State some of the reasons why this doctrine has been reviewed in some jurisdictions and how various jurisdictions have sought to amend it.

[25 MARKS]

QUESTION 6

- (a) Mention and explain in detail the type of shares into which capital is normally divided. (10 marks)
- (b) Under what circumstance may a company reduce its capital? (5 marks)
- (c) Write notes on the allotment of shares. (10 marks)

[25 MARKS]