

PCLL CONVERSION EXAMINATION JUNE 2019

Title of Paper : Business Associations
Date : 18 June 2019
Time : 9:30 a.m. – 9.45 a.m. (Reading Time)
9:45 a.m. – 12:45 p.m.

Instructions

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is a three-hour examination.
5. This is an open book examination.
6. Reading time for this paper is 15 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 3 pages, including Part A and Part B. A total of 300 marks may be awarded.
8. Part A contains two compulsory questions. Candidates must answer **ALL** questions. There is **NO** element of choice. Part A is worth 200 marks.
9. Part B contains two questions. Candidates are only required to answer **ONE** question out of two. Part B is worth 100 marks.
10. The passing mark for this paper is 150 marks.

**DO NOT OPEN THIS QUESTION BOOK
UNTIL YOU ARE TOLD TO DO SO**

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Business Associations

Part A (answer BOTH Question 1 and Question 2)

Question 1 (100 marks)

Anthony is the controlling shareholder of a private company. Keith is a director and a minority shareholder of that company.

The company's articles of association sets out the notice requirement for meetings.

Anthony wants to appoint his wife as a new director of the company. Anthony argues that proper notice was given to call a general meeting at which written resolutions were passed to appoint his wife as a new director. Keith receives no notice of any such meeting.

Advise Keith on the legal basis for challenging the notice and meetings, and the validity of the appointment of Anthony's wife as new director.

Question 2 (100 marks)

Chris is a managing director, and one of the four directors of a property development company. Chris purported to act on behalf of the company to grant a mortgage of its land in favour of B Ltd, as a security for a loan owed to B Ltd by Chris's other company.

Chris signed as a director. He affixed the company's seal to the mortgage. The company's articles require board authorisation to use the company seal.

The mortgage is unrelated to the company's business. The company does not benefit from the loan. The company challenges the validity of the mortgage.

Advise B Ltd on the following:

- (a) Is the property development company bound by Chris's act? Explain your answer with reference to the relevant provisions in the Companies Ordinance.**
- (b) Would the answer in (a) be different if B Ltd is a company connected with a director of the company?**

Part B (answer EITHER Question 3 or Question 4)

Question 3 (100 marks)

The company's articles delegate general powers of management to the board of directors. However, article 24 provides that: 'no board decision on the relevant issue, including the acquisition and letting of premises, should be valid if either of two managing directors dissented'. Michael is one of the managing directors.

The company's articles also name Michael as the company's solicitor, and contain a provision to prevent Michael's removal except for his misconduct.

The board has decided to acquire a flat in Central. Michael has duly indicated his dissent from this decision of the directors. However, subsequently an ordinary resolution 'was passed at the general meeting confirming that decision. The company also intends to remove Michael as the company's solicitor.

Advise Michael as to whether he can enforce the articles to restrain the company from (a) completing the transaction and (b) removing him as the company's solicitor.

Question 4 (100 marks)

Ada was the sole shareholder and director of a company. Last year, Ada gave Dora, an employee, a 24 percent share and a directorship. An informal profit-sharing agreement was made between the parties, but no conclusive agreement was concluded. In May 2019, Ada decided, as a controlling shareholder, to remove Dora from her directorship and reduce her profit share.

Advise Dora on the remedies available to her.

~ End of Examination Paper ~