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COMPANY LAW
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QUESTION ONE

- a) Discuss five exceptions to the rule in *Sharpe V. Dawes* (1876) 2 QBD 26. (10 marks)
- b) Angela Wanjiku and Christabel Ochieng' had been carrying a business as a partnership, sharing profits and losses equally. Christabel Ochieng' wished to introduce her son Abel Ochieng' into the business and Angela Wanjiku consented. They converted the partnership into a limited liability company now known as ACA Company Ltd. Angela Wanjiku and Christabel Ochieng' each hold 40% of the total shares issued and the balance is held by Abel Ochieng. They are also directors of the company. Soon after the company was formed, misunderstanding arose between Angela Wanjiku and Christabel Ochieng' regarding the day to day management of the business. Christabel Ochieng' and her son Abel Ochieng' decided to expel Angela Wanjiku from the board of directors. They have now resolved to remove her from the board of the company.

Advise Christabel Ochieng' and Abel Ochieng' on the steps they should take in order to remove Angela Wanjiku from being a director of the company. (10 marks)

(Total: 20 marks)

QUESTION TWO

- a) With reference to debt capital, explain the priorities between fixed and floating charges created over company property (10 marks)
- b) A member of a co-operative has been aggrieved by a decision of the co-operative Tribunal. The member has appealed against the decision to the high court. Outline the powers of the High Court in respect of the appeal (10 marks)

(Total: 20 marks)

QUESTION THREE

- a) Sidebottom Ltd. is a private limited company that intends to alter its articles of association. Explain to the directors if the company, five conditions which the company must comply with when exercising its powers to alter the articles of association. (10 marks)
- b) Discuss the various types of the alternatives to corporate insolvency as provided for under the companies Act. (10 marks)

(Total: 20 marks)

QUESTION FOUR

- a) Highlight four rights of an auditor of a company (8 marks)
- b) Group accounts need not deal with a subsidiary of the company. Describe four factors which might influence the directors to form the above opinion (8 marks)
- c) Outline the provision governing the following matters as related to the company secretary:
- i. Appointment of the company secretary (1 mark)
 - ii. Persons not qualified to hold office as a company secretary (3 marks)

(Total: 20 marks)

QUESTION FIVE

- a) Discuss five statutory restrictions that allotment of shares and debentures of companies are subject to. (8 marks)
- b) Distinguish between "issuing shares at discount" and "issuing shares at premium" (2 marks)
- c) Jeremy Kimalat bought shares from Kikwao Company Ltd. Later on, he discovered that his name was missing in the register of members of the company. The company has neglected, delayed and refused to rectify the omission.

Advise Jeremy Kimalat on the following;

- i. Persons who can sue for rectification of the register of members (6 marks)
- ii. The orders that the court might issue with respect to an application for rectification of the register of members (4 marks)

(Total: 20 marks)

QUESTION SIX

- a) Laurin BVR Ltd. is a foreign company operating in Kenya.
Advise the directors of Laurin BVR Ltd on the following:
 - i. Types of accounts to be registered with the registrar of companies (2marks)
 - ii. The exceptions to the requirements in (a) (i) above (6 marks)
- b) Explain three rules and regulations regarding the contents of a prospectus. (6 marks)
- c) Distinguish between a "public company" and a "private company" (6 mark)

(Total: 20 marks)

QUESTION SEVEN

- a) Ben Nyotu and Mla Chake are directors of Banki Yetu Ltd. Each of them holds forty percent of the ordinary shares and the remainder is held by Mla Yote. In addition to the shares, Ben Nyotu holds debentures issued by Banki Yetu, redeemable on 9 september 2015. Ben Nyotu wishes to dispose of his shares and debentures to Mla Chake and Mla Yote on priority basis.
Banki Yetu Ltd, intends to raise funds and lend the same to Mla Yote to enable him purchase Ben Nyotu's debentures. Mla Yote will also arrange for a private loan guaranteed by Banki Yetu Ltd, to enable him purchase Ben Nyotu's shares.
Advise Banki Yet Ltd, on the legality of its arrangement with Mla Yote regarding the purchase of Ben Nyotu's shares and debentures. (12 marks)
- b) Distinguish between a "creditors voluntary winding-up" and a "members voluntary winding-up" of a company. (8 marks)

(Total: 20 marks)

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