

Advanced Company Law and Practice

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Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 5

NOTE : 1 Answer SIX questions including Question No.1 which is compulsory.
2 All references to sections relate to the Companies Act, 1956 unless stated otherwise.

1. (a) State, with reasons in brief, whether the following statements are true or false :
- (i) A company has 7 directors on the Board. A Board meeting is held at the registered office of the company at Chennai where two directors were present. Two more directors participated in the meeting through video conferencing from Berlin. The Board meeting is valid.
 - (ii) A listed company with a paid-up share capital of Rs.25 crore has constituted an 'audit committee' and 'remuneration committee' whereas the company has no 'nomination committee'. Therefore, the company has violated the listing agreement.
 - (iii) Inspection under section 209A has been ordered and carried out by the Regional Director (RD) in respect of Good Luck Ltd. and the RD has submitted his report to the Central Government. SEBI has asked for a copy of the report which the RD declined. SEBI feels that under section 209A(6) it has a right to receive the copy.
 - (iv) Sunrise Ltd. has its registered office in the city of Hyderabad. The jurisdictional office of the Company Law Board to deal with matters relating to investigation under sections 235 and 237 is the Principal Bench at New Delhi.
 - (v) Bruce Lee is a member of the Board of directors of Free Sports Ltd. (FSL), a company incorporated in Japan. FSL has a branch office in Mumbai. It is mandatory for Bruce Lee to apply for a Director Identification Number (DIN) in India.
 - (vi) The Board of a listed company shall meet at least four times in a year with a maximum time gap of three months between any two successive meetings.
 - (vii) The Accounting Standards issued by the Institute of Chartered Accountants of India are the standards automatically recognised in sub-section 3(A) of section 211.
 - (viii) Schedule XIII to the Companies Act, 1956 does not apply to profit making companies.

(2 marks each)

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(b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :

- (i) Applicable provision of Table 'A' will apply, if a company limited by shares is silent on any matter in its articles of association without _____ that provision of Table 'A'.
- (ii) The Board of directors of a company shall on the requisition of number of members specified in section 169, forthwith proceed to call an _____ of the company.
- (iii) No company shall appoint or re-appoint a sole-selling agent for a term exceeding _____ at a time.
- (iv) No public company shall directly or indirectly make any loan to any other body corporate exceeding sixty per cent of its paid-up capital and free reserves or one hundred per cent of its free reserves whichever is _____.

(1 mark each)

2. (a) Choose the most appropriate answer from the given options in respect of the following :

- (i) Back office in the context of MCA-21 is --
 - (a) The income-tax departments of the companies concerned
 - (b) Office of the concerned Registrar of Companies
 - (c) Headquarters of the company concerned where the registered office is located elsewhere
 - (d) The portion of the office of the company concerned where employee access is restricted.
- (ii) Power of the Central Government under section 615 is to --
 - (a) Carry out amendments to the regulations under the Companies Act, 1956
 - (b) Initiate prosecution against delinquent director
 - (c) Direct companies to furnish certain information and/or statistics regarding the company
 - (d) Notify the commodities which will not require sole-selling agents.
- (iii) A company may pay commission to any person for procuring or agreeing to procure subscription for debentures of the company at a rate --
 - (a) Of 5% of the issue price of debentures
 - (b) Exceeding 5%, but not exceeding $7\frac{1}{2}\%$ of the issue price of the debentures
 - (c) Exceeding 2 % of the issue price of the debentures
 - (d) Such rate as has been specified in the articles of association for the purpose subject to a maximum of 2 % of the issue price of the debentures.

- (iv) A proprietary company in Australia is --
- (a) An unlimited liability company without any share capital
 - (b) A company limited by guarantee
 - (c) An unlimited liability company with proprietary capital, but no share capital
 - (d) An unlimited company with a share capital.
- (v) According to Secretarial Standard-1 on meetings of the Board of directors --
- (a) The notice and the agenda should go together at least 15 days prior to the date of the meeting
 - (b) The sending of notice should precede the sending of agenda by at least 10 days
 - (c) The notice and agenda should invariably be sent together at least 14 days before the meeting
 - (d) The notice should be sent at least 15 days before the date of the meeting while the agenda must be sent at least 7 days before the date of the meeting.
- (vi) A Board of directors cannot delegate to any committee of the Board --
- (a) The power to make call on shareholders to make payment of unpaid amount on shares
 - (b) The power to make loans
 - (c) The power to invest the funds of the company
 - (d) The power to borrow money for the company.
- (1 mark each)
- (b) "The Board is the repository of almost all the corporate powers, a guardian of the enterprise and a protector of the interest of the shareholders." Comment on this statement in the light of provisions of the Companies Act, 1956.
- (10 marks)
3. (a) State the objective and structure of Schedule XIII to the Companies Act, 1956.
- (8 marks)
- (b) Do you agree with the following statements ? Give reasons :
- (i) The members at an annual general meeting do not adopt the profit and loss account and the balance sheet. It is a requirement in such a case to file the balance sheet and profit and loss account with the Registrar of Companies.
 - (ii) The managing director of a company who was not present at the Board meeting where accounts were approved is required to sign the accounts.
- (4 marks each)

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4. (a) Alpha Ltd. (the transferor company) with an authorised share capital of Rs.100 crore wants to merge with Beta Ltd. (the transferee company) with an authorised capital of Rs.50 crore and a scheme of amalgamation has been sanctioned by the court. As per the scheme, Beta Ltd. will issue additional equity shares to the shareholders of Alpha Ltd. by which the total paid-up equity share capital of Beta Ltd. will increase to Rs.90 crore. Advise, if Beta Ltd. is required to comply with the statutory requirements relating to increase of authorised capital and the consequent payment of fee to the authorities.

(10 marks)

- (b) Company Law Board (CLB) can make *ex-parte* orders. Detail the procedure to be followed by the CLB.

(6 marks)

5. Sprint Ltd., a listed company, whose financials as at 30th June, 2009 as stated under, wants to implement a buy-back of shares :

- Paid-up equity share capital : Rs.200 lakh (20,00,000 shares of Rs.10 each)
- Preference share capital : Rs.100 lakh (Redeemable in December, 2013 and should be treated as equity for the purpose of debt-equity ratio)
- Free reserves : Rs.200 lakh
- 10% Debentures : Rs.200 lakh
- Loans from IDBI : Rs.300 lakh

You are required to --

- (i) Compute the quantum of equity capital eligible for buy-back.
- (ii) Draft necessary resolutions to give effect to the above.

(8 marks each)

6. (a) X Ltd. is the wholly-owned subsidiary of Y Ltd. with a paid-up share capital of Rs.100 lakh consisting of 10,00,000 shares of Rs.10 each. While 9,99,994 shares are registered in the name of Y Ltd., the balance six shares are registered one each in the names of A, B, C, D, E and F (who are employees of Y Ltd.) for the purpose of complying with the requirement to have a minimum of 7 members. List down the necessary forms to be filed with the concerned authorities to give effect to this.

(4 marks)

- (b) Dimlight Ltd. has defaulted in payment of wages for 3 consecutive months. The workers' union of Dimlight Ltd. filed a petition under section 439 to the court seeking winding-up of the company. Is the petition tenable ? Give reasons.

(4 marks)

- (c) The relaxation and extension of the law of limitation on commencement of winding-up runs both in favour of the company being wound-up and the opponent party who has a claim against the company. Discuss.
(4 marks)
- (d) Amit, whose name appears on the register of members of Doom Ltd., contends that allotment of shares to him was void and hence his name should not figure in the list of contributories. Advise.
(4 marks)
7. (a) SEBI justifies its existence by making pro-active regulations and active policing to protect the investors from the evils of insider trading. Critically examine.
(8 marks)
- (b) Adequate checks and controls are incorporated in the MCA-21 system to ensure accuracy of data and proper validation of forms filed under e-filing mode. Examine.
(4 marks)
- (c) "A private limited company can be converted into a public limited company, but a public limited company cannot be converted into a private limited company." Comment.
(4 marks)
8. Write short notes on **any four** of the following :
- (i) Investigation into ownership of a company
 - (ii) Whistle blower policy
 - (iii) Expenses of investigation under section 235 or 237
 - (iv) Persons deemed to be 'connected person' for the purpose of insider trading
 - (v) Contributories in winding-up of a registered company.
- (4 marks each)

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