Dear Student

You should have received Tutorial Letter MRL2601/101/3/2011 after you registered for this course.

The content of this tutorial letter is as follows:

1 INTRODUCTION OF LECTURERS
2 DISCUSSION CLASSES AND SATELLITE BROADCASTS
3 FORMAT OF THE EXAMINATION PAPER
4 GENERAL COMMENTS REGARDING THE EXAMINATION
5 CONCEPT EXAMINATION PAPER FOR PURPOSES OF REVISION

1 INTRODUCTION OF LECTURERS

The following lecturers will be involved in this module during 2011:

Ms J Geldenhuys (course leader) Tel: 012 429 8472, e-mail: geldej@unisa.ac.za
Adv MA Mthembu Tel: 012 429 8489, e-mail: mthemma@unisa.ac.za
Mr P Munyai Tel: 012 429 8621, e-mail: munyaps@unisa.ac.za
Prof DM Farisani Tel: 012 429 8486, e-mail: farisdm@unisa.ac.za
Mrs BM Masuku Tel: 012 429 8481, e-mail: masukbm@unisa.ac.za

Should you have any academic enquiries regarding this module, you are welcome to contact us on week days at the numbers provided above. Please use the “Voicemail” message system that is linked to our telephones if you are unable to reach us when you call.

For administrative queries please contact the Unisa contact centre at 086 1670411.

We prefer to communicate with students by e-mail for record purposes. If you have specific questions regarding the content of the course, you are therefore welcome to send an e-mail to geldej@unisa.ac.za.

PLEASE NOTE THAT YOU ARE NOT PERMITTED TO CONTACT LECTURERS REGARDING THE CONTENT OF THE EXAMINATION PAPER. No break-downs of the work will be provided by any of the lecturers involved in this module.
2 DISCUSSION CLASSES AND SATELLITE BROADCASTS

Please diarize the following dates for MRL 2601 discussion classes for 2011. Although the classes are not compulsory, we recommend attendance. You will, however, benefit by attending the classes.

As a result of the large quantity of work dealt with in the module, we offer two classes per semester in Pretoria, Durban, Polokwane and Cape Town (see the dates hereunder); one on Friday evening and the other on the Saturday morning.

You are also invited to attend the lectures offered for the module CLA 2601. Please note that in the CLA 2601 classes there will be no discussion of the case law that is prescribed for you in MRL 2601. The classes would, however, be beneficial to you should you require revision of the work or if you have specific questions that you would like to ask the lecturers offering the module. The dates for the CLA 2601 classes are included in italics hereunder for your convenience.

The lectures are offered on the following dates:

First semester

Pretoria

CLA:
Date: 08 April 2011.
Venue: Muckleneuk campus, Theo van Wijk Building, Exam Hall 2.
Time: 18h00 – 20h00.
Scope of work covered: Part 1 (Study unit 1-5) excluding prescribed case law.

Date: 09 April 2011.
Venue: Muckleneuk campus, Theo van Wijk Building, Exam Hall 2.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11) excluding prescribed case law.

MRL:
Date: 15 April 2011.
Venue: Muckleneuk campus, Theo van Wijk Building, Exam Hall 2.
Time: 18h00 – 20h00.
Scope of work covered: Part 1 (Study unit 1-5).

Date: 16 April 2011.
Venue: Muckleneuk campus, Theo van Wijk Building, Exam Hall 2.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11).
Durban

**CLA:**
Date: 08 April 2011.
Venue: Durban campus, 230 Stanger Street, Durban.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5) excluding prescribed case law.

Date: 09 April 2011.
Venue: Durban campus, 230 Stanger Street, Durban.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11) excluding prescribed case law.

**MRL:**
Date: 15 April 2011.
Venue: Durban campus, 230 Stanger Street, Durban.
Time: 18h00 – 20h00.
Scope of work covered: Part 1 (Study unit 1-5).

Date: 16 April 2011.
Venue: Durban campus, 230 Stanger Street, Durban.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11).

Polokwane:

**CLA:**
Date: 08 April 2011.
Venue: Polokwane campus, Landros Maré Street, Polokwane.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5) excluding prescribed case law.

Date: 09 April 2011.
Venue: Polokwane campus, Landros Maré Street, Polokwane.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11) excluding prescribed case law.

**MRL:**
Date: 15 April 2011.
Venue: Polokwane campus, Landros Maré Street, Polokwane.
Time: 18h00 – 20h00.
Scope of work covered: Part 1 (Study unit 1-5).

Date: 16 April 2011.
Venue: Polokwane campus, Landros Maré Street, Polokwane.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11).
Cape Town

CLA:
Date: 08 April 2011.
Venue: Parow campus, 15 Jean Simonis Street, Parow.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5) excluding prescribed case law.

Date: 09 April 2011.
Venue: Parow campus, 15 Jean Simonis Street, Parow.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11) excluding prescribed case law.

MRL:
Date: 15 April 2011.
Venue: Parow campus, 15 Jean Simonis Street, Parow.
Time: 18h00 – 20h00.
Scope of work covered: Part 1 (Study unit 1-5).

Date: 16 April 2011.
Venue: Parow campus, 15 Jean Simonis Street, Parow.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11).

Second semester

Pretoria

CLA:
Date: 09 September 2011.
Venue: Muckleneuk campus, Theo van Wijk Building, Exam Hall 2.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5) excluding prescribed case law.

Date: 10 September 2011.
Venue: Muckleneuk campus, Theo van Wijk Building, Exam Hall 2.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11) excluding prescribed case law.
MRL:
Date: 16 September 2011.
Venue: Muckleneuk campus, Theo van Wijk Building, Exam Hall 2.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5).

Date: 17 September 2011.
Venue: Muckleneuk campus, Theo van Wijk Building, Exam Hall 2.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11).

Durban

CLA:
Date: 09 September 2011.
Venue: Durban campus, 230 Stanger Street, Durban.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5) excluding prescribed case law.

Date: 10 September 2011.
Venue: Durban campus, 230 Stanger Street, Durban.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11) excluding prescribed case law.

MRL:
Date: 16 September 2011.
Venue: Durban campus, 230 Stanger Street, Durban.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5).

Date: 17 September 2011.
Venue: Durban campus, 230 Stanger Street, Durban.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11).

Polokwane

CLA:
Date: 09 September 2011.
Venue: Polokwane campus, Landros Maré Street, Polokwane.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5).

Date: 10 September 2011.
Venue: Polokwane campus, Landros Maré Street, Polokwane.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11).
MRL:
Date: 16 September 2011.
Venue: Polokwane campus, Landros Maré Street, Polokwane.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5).

Date: 17 September 2011.
Venue: Polokwane campus, Landros Maré Street, Polokwane.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11).

Cape Town

CLA:
Date: 09 September 2011.
Venue: Parow campus, 15 Jean Simonis Street, Parow.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5) excluding prescribed case law.

Date: 10 September 2011.
Venue: Parow campus, 15 Jean Simonis Street, Parow.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11) excluding prescribed case law.

MRL:
Date: 16 September 2011.
Venue: Parow campus, 15 Jean Simonis Street, Parow.
Time: 18h00-20h00.
Scope of work covered: Part 1 (Study unit 1-5).

Date: 17 September 2011.
Venue: Parow campus, 15 Jean Simonis Street, Parow.
Time: 09h00-12h00.
Scope of work covered: Part 2 (Study unit 6,7,8,9 and 11).

PLEASE NOTE: Discussion class notes will be made available on myUNISA a week before the lectures are offered.
SATELLITE BROADCASTS:

There will be no satellite broadcasts in this module. However, you will receive a DVD that may be used for purposes of preparation for the examination.

Please note that it will not suffice to merely memorize the content of the DVD. The prescribed study material still remains the principle source and the DVD is merely intended as an aid for revision purposes.

Should you have any queries regarding the content of this recording please contact a lecturer.

3 FORMAT OF THE EXAMINATION PAPER

The examination is a closed-book examination. You will not be permitted to take any source material or notes into the examination venue.

Please note that it is a two hour examination. The examination paper counts out of 100 marks and is divided into two sections. Section A counts 70 marks and Section B counts 30 marks. Both sections deal with aspects of the law relating to companies and close corporations. The law relating to partnerships and business trusts are not included.

| Company Law (Study unit 1, 2,3,4,5,6,7,8 and 9) amounts to approximately 70% of the total examination mark, while the law relating to close corporations (Study unit 11) will count about 30% towards the examination mark. |

Section A of the examination paper consists of questions divided into sub-sections. These questions must be answered in the space provided on the examination script. In this section, you will be required to identify problems, discuss and explain the legal principles and come to a conclusion relating to the facts provided. You can also expect some direct questions (“list” or “name”). Please note that in this section you will be required to refer to authority. In other words, you will need to refer to relevant sections of legislation and relevant case law.

Section B of the paper consists of ten (10) multiple choice questions, each counting three (3) marks.

4 GENERAL COMMENTS REGARDING THE EXAMINATION

Students often forfeit marks as a result of the fact that questions are not properly read and/or misinterpreted. Please note that the abbreviation of the name of an enterprise (for example: ZET (Pty) Ltd for a private company and ZET CC for a close corporation) provides an indication of the type of business in question. The same applies where terms like “shares” “member’s interest” and “directors” are used. If you use the term “shares” instead of “member’s interest in a question dealing with close corporations, it would be incorrect and you will forfeit the marks.
**Read all the tutorial letters.** These are part of your prescribed study material.

You are not expected to memorise the section numbers from legislation that is mentioned in passing or between brackets. **You should however remember the numbers of sections of legislation that are individually discussed,** for example section 19, 20 and 161 of the Companies Act of 2008.

The prescribed cases in the case book are part of your study material. You must also know the cases as discussed and explained in the textbook. It is unnecessary to memorise the entire reference to the cases for purposes of the examination. You may refer to a case by using an abbreviation of the name (one of the parties) that you can remember easily, for instance “the Robinson-case”. Your knowledge of case law will also be tested in the multiple choice section.

Study the Study guide properly!

Please note that it will not suffice to prepare for the examination by just working out the answers to the activities in the study guide. The activities and the assignments will however provide a good indication of the types of questions that you can expect in the examination.

**5. CONCEPT EXAMINATION PAPER FOR PURPOSES OF REVISION:**

**PLEASE NOTE THAT YOU DO NOT HAVE TO STUDY STUDY UNIT 10 (PARTNERSHIPS) AND 12 (TRUSTS) FOR PURPOSES OF THE EXAMINATION.**

We include a concept examination paper for purposes of revision. This should provide you with an indication of the way in which the longer (written) questions are asked in this module. We shall provide you with guidelines for answering these questions in Tutorial Letter 201.

However, please note that you will not pass if you merely work out the answers to this concept paper and memorise it. The prescribed work for this module must be thoroughly studied to master the work.

**QUESTION 1**

1.1 List two (2) differences between a profit and a non-profit company. (4)

1.2 Discuss the transitional provisions in the Companies Act 71 of 2008 that deal with the status of close corporations after the Companies Act comes into force. (3)
1.3 Discuss the requirements for pre-incorporation contracts contained in section 21 of the Companies Act 71 of 2008. Also indicate whether you think it is best to use section 21 or rather the contract for the benefit of a third party in terms of the common law. Explain your answer.  

1.4 GoodBuy (Pty) Ltd is a newly incorporated company. As one of the directors you have been given the task to determine who is bound by the Memorandum of Incorporation and the rules of the company.  

1.5 The Companies Act 71 of 2008 has partly codified directors’ duties. List the six codified duties of directors as contained in the Companies Act.  

TOTAL: 25

QUESTION 2

2.1 Anthony, Brett, Carl and Daniel are employees of Beta Ltd. Beta Ltd makes loans to Anthony, Carl and Xander (an existing member) to enable them to subscribe to shares of the company. 

Do these loans qualify as financial assistance? Refer to relevant case law in your answer.  

2.2 Name and briefly define the different classes of preference shares.  

2.3 Under which circumstances may dividends be paid to shareholders?  

2.4 Section 165 of the Companies Act 71 of 2008 expressly abolishes the common-law derivative action. All derivative actions on behalf of a company will have to be brought under the new statutory provisions which provide for a wider statutory derivative action than the one provided for in section 266 of the Companies Act of 1973. 

Discuss the new statutory derivative action in section 165 of the Companies Act 71 of 2008 in respect of
2.4.1 the person or persons who may bring the action

2.4.2 the basis for the application

2.5 Samson is a director of Tectronics (Pty) Ltd, a company that manufactures tyres. Samson obtains information that a limited amount of rubber, which is used in the manufacture of tyres, is being sold very cheaply by a foreign company. Samson resigns as director of Tectronics (Pty) Ltd and incorporates Speedytyres (Pty) Ltd. His company also manufactures tyres. Samson then enters into a contract with the foreign company on behalf of Speedytyres (Pty) Ltd, for the purchase of the entire rubber stock.

Advise Samson whether or not he acted in breach of his fiduciary duties to Tectronics (Pty) Ltd. Refer to relevant case law in your answer.

TOTAL: 25

QUESTION 3

3.1 John, Tumi and Steve are members of Success CC, a close corporation registered in November 2006. Both John and Tumi have paid their initial contributions to the corporation, while Steve has not. Due to the slowing down of the economy, Success CC has defaulted on the payment of its debt to Alex, one of its creditors.

Advise Alex on who can be held liable for payment of the debt.

3.2 Which circumstances may result in persons being held personally liable for the debts of a close corporation? Refer to relevant case law.

3.3 The founding statement of Ikhaya CC describes the principal business of the close corporation as, "buying of residential homes for purposes of resale". Asanda, one of the members of the corporation, concludes a contract to buy construction equipment on behalf of Ikhaya CC. The other members of Ikhaya CC reject the contract as invalid on the basis that it goes beyond the scope of the corporation's business.

Explain what the capacity of a close corporation is and what consequences a transaction outside of such capacity hold for third parties.
3.4 Eddie wishes to start his own business. His friend Charl registered a close corporation in 2007 and wishes to sell the business. Eddie is unsure whether he should register a private company or buy Charl’s close corporation. Advise Eddie of the advantages of the close corporation as a business form. (5)

TOTAL: 20

TOTAL FOR SECTION A: 70

----------------------------------------------- END OF SECTION A------------------------------------

Please note that the examination you will be writing will also include 10 multiple choice questions. These questions will be similar to the multiple choice questions you had to answer in Assignment 1, except that the questions will deal only with the law relating to companies and close corporations.

Good luck with your studies!

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