

MRL2601

(490713)

October/November 2011
Oktober/November 2011
**ENTREPRENEURIAL LAW (MERCANTILE LAW)
ONDERNEMINGSREG (HANDELSREG)**
Duration . 2 Hours
Tydsduur 2 Uur100 Marks
100 Punte

EXAMINERS / EKSAMINATORE :

FIRST / EERSTE
SECOND / TWEDEMS/ME J GELDENHUYS
PROF I ESSER

This paper consists of 27 pages plus instructions for completing a mark reading sheet.
Hierdie vraestel bestaan uit 27 bladsye plus instruksies vir die voltooiing van 'n merkleesblad.

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INSTRUCTIONS:/INSTRUKSIES:

1. This paper consists of 27 pages and you have to answer *all* the questions.
Hierdie vraestel bestaan uit 27 bladsye en u moet *al* die vrae beantwoord.
2. The paper is divided into 2 sections.
SECTION A consists of 3 questions (with subdivisions) *and* has to be completed in the space provided on the *examination paper* itself.
SECTION B consists of 10 multiple choice questions counting 3 marks each. The answers to the multiple choice questions have to be filled in on the *mark reading sheet* provided to you.
Die vraestel bestaan uit 2 afdelings:
AFDELING A, wat uit 3 vrae (met onderafdelings) bestaan, moet op hierdie *vraestel* self voltooi word in die ruimte voorsien.
AFDELING B bestaan uit 10 meerkeusevrae wat 3 punte elk tel. Die antwoorde op die meerkeusevrae moet ingevul word op die *merkleesblad* wat aan u voorsien is.
3. At the end of the examination you have to hand in both this examination paper as well as the mark reading sheet containing your answers to the multiple choice questions.
Aan die einde van die eksamen moet u beide hierdie eksamenvraestel, sowel as die merkleesblad wat u antwoorde op die meerkeusevrae bevat, inhandig.
4. GOOD LUCK! We hope that you will do well.
STERKTE! Mag dit met u goed gaan.

SECTION A
AFDELING A**QUESTION 1**
VRAAG 1

- 1 1 Bongi and Zandile each hold shares in Montaness (Pty) Ltd. The only other shareholder is Peter who is a preference shareholder who enjoys no voting rights. Bongile and Zandile are also the only two directors of the company. Montaness (Pty) Ltd's Memorandum of Incorporation provides that the company in general meeting may declare final dividends and that no dividend may exceed the amount recommended by the directors. At a meeting of the board of directors, Bongi and Zandile agree that the company must declare a dividend of 25 cents per share.

With reference to the set of facts answer the following questions:

- 1 1 1 What type of company is Montaness (Pty) Ltd? (2)
- 1.1.2 If there is a contradiction between a stipulation contained in the Companies Act 71 of 2008 and a stipulation in the Memorandum of Incorporation or between a stipulation in the Memorandum of Incorporation and one of the rules of the company which stipulation would enjoy preference? (3)
- 1.1.3 Explain whether or not it is possible for Bongile and Zandile to pass the resolution to declare dividends without convening a meeting of shareholders. Refer to relevant case law in your answer (6)
- 1.1.4 Explain the requirements that must be complied with before a company may validly declare a dividend. (6)
- 1.1 5 What types of preference shares can a company's MOI provide for? (3)
[20]
- 1.1 **Bongi en Zandile hou elkeen aandeel in Montaness (Edms) Bpk. Die enigste ander aandeelhouer is Peter wat voorkeuraandeel in die maatskappy hou wat geen stemregte geniet nie. Bongi en Zandile is ook die enigste twee direkteure van die maatskappy. Montaness (Edms) Bpk se Akte van Oprigting bepaal dat die maatskappy in algemene vergadering finale dividende mag verklaar en dat geen dividende die bedrag wat deur die direksie aanbeveel word, mag oorskry nie. By 'n direksievergadering stem Bongi en Zandile saam dat die maatskappy 'n dividend van 25 sent per aandeel moet verklaar.**

Beantwoord die volgende vrae met verwysing na die feitestel:

- 1.1.1 Watter tipe maatskappy is Montaness (Edms) Bpk? (2)

1.1.2 Indien daar 'n teenstrydigheid is tussen 'n bepaling vervat in die Maatskappywet 71 van 2008 en 'n bepaling in die Akte van Oprigting of tussen 'n bepaling in die Akte van Oprigting en een van die reëls van die maatskappy, watter bepaling sal voorkeur geniet?
(3)

1.1.3 Verduidelik of dit vir Bongile en Zandile moontlik is om die besluit om die dividend te verklaar te neem sonder om 'n ledevergadering te belê of nie. Verwys na toepaslike regspraak in u antwoord.
(6)

1.1.4 Verduidelik die vereistes waaraan voldoen moet word voordat 'n maatskappy 'n dividend geldiglik kan verklaar.
(6)

1.1.5 Vir watter tipes voorkeuraandele kan 'n maatskappy se Akte van Oprigting voorsiening maak?
(3)
[20]

1.1.1

1.1.2

1.1.3

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1.1.4

1.1.5



1.2 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.

What requirements need to be adhered to in terms of the Companies Act 71 2008 to validly provide financial assistance? (5)

1.2 Anthony, Brett, Carl en Daniel is werknemers van Beta Bpk. Beta Bpk maak lenings aan Anthony, Carl en Xander ('n bestaande lid) ten einde hulle in staat te stel om aandele in die maatskappy te verkry.

Watter vereistes moet nagekom word ingevolge die Maatskappywet 71 van 2008 om geldiglik finansiële bystand te verskaf? (5)

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QUESTION 2

VRAAG 2

- 2.1 The main object of ABC (Pty) Ltd is manufacturing furniture. The Memorandum of Incorporation provides that the board of directors may appoint a managing director who will be authorised to enter into contracts on behalf of the company. Should the contract, however, exceed the amount of R150 000, prior consent of the general meeting is required.

Godfried, one of the directors, buys a beach house for R350 000 from Nomagugu on behalf of ABC (Pty) Ltd.

With reference to the set of facts answer the following questions:

- 2.1.1 Explain whether or not ABC (Pty) Ltd can raise the restrictions to its capacity as contained in its Memorandum of Incorporation as grounds to avoid being bound to the contract. (5)
- 2.1.2 Assume that Godfried had contracted on behalf of ABC (Pty) Ltd with Nomagugu on previous occasions. What would Nomagugu have to prove if ABC (Pty) Ltd denies being bound to the contract on the basis that Godfried lacked express authority to conclude the contract? Refer to relevant case law in your answer. (5)
- [10]

- 2.1 **ABC (Edms) Bpk se hoofbesigheid is die vervaardiging van meubels. Die Akte van Oprigting bepaal dat die direksie 'n besturende direkteur mag aanstel wat volmag sal hê om namens die maatskappy te kontrakteer. Indien die kontrak egter die bedrag van R150 000 te bowe gaan, word vooraf toestemming van die algemene vergadering vereis.**

Godfried, een van die direkteure, koop namens ABC (Edms) Bpk 'n strandhuis van Nomagugu ten bedrae van R350 000.

Beantwoord die volgende vrae met verwysing na die feitestel:

- 2.1.1 **Verduidelik of ABC (Edms) Bpk op grond van die beperkinge op die maatskappy se bevoegdheid soos in die Akte van Oprigting vervat kan aanvoer dat die maatskappy nie gebonde sal wees aan die kontrak nie of nie.** (5)
- 2.1.2 **Veronderstel dat Godfried op vorige geleenthede met Nomagugu gekontrakteer het namens ABC (Edms) Bpk. Wat sal Nomagugu moet bewys indien ABC (Edms) Bpk argumenteer dat die maatskappy nie gebonde is aan die kontrak nie omdat Godfried nie uitdruklike volmag gehad het om die kontrak te sluit nie? Verwys na toepaslike regspraak in u antwoord.** (5)
- [10]

[Lines on following page/Lyne op volgende bladsy]

2.2 Tinyiko is a non-executive director of Verytaste (Pty) Ltd. She attended a meeting where she became aware of the fact that the company defaulted on certain payments due to Distribio (Pty) Ltd who is responsible for the distribution of the company's products. Distribio (Pty) Ltd had threatened to cancel the contract. However, Verytaste (Pty) Ltd's chief financial officer assured the board that this was only due to a temporary cash flow problem. Tinyiko relied on this assurance. Tinyiko does not attend the next two board meetings. At a subsequent board meeting Tinyiko learns that Distribio (Pty) Ltd cancelled the contract as a result of continual non-payments by Verytaste (Pty) Ltd. As a result of the interruption in distribution Verytaste (Pty) Ltd suffered a loss in excess of R5 million to the company. Consequently Verytaste (Pty) Ltd is placed in liquidation.

With reference to the set of facts answer the following questions:

2.2.1 For breach of what duty can the liquidator possibly hold the directors liable for the loss that the company had suffered? (1)

2.2.2 How will the court determine whether or not the directors are liable for the loss? Refer to relevant case law in your answer. (5)

2.2.3 Explain the defence that could possibly be raised by Tinyiko in terms of the Companies Act 71 of 2008 to avoid liability. (4)
[10]

2.2 Tinyiko is 'n nie-uitvoerende direkteur van Verytaste (Edms) Bpk. Sy het 'n vergadering bygewoon waar dit onder haar aandag gekom het dat Verytaste (Edms) Bpk versuim het om sekere betalings te maak aan Distribio (Edms) Bpk, 'n maatskappy wat verantwoordelik is vir die verspreiding van Verytaste (Edms) Bpk se produkte. Distribio (Edms) Bpk het gedreig om die kontrak te kanselleer. Verytaste (Edms) Bpk se hoof finansiële beampte het egter die direksie verseker dat dit slegs 'n tydelike kontantvloei-probleem is. Tinyiko het staagemaak op hierdie versekering. Tinyiko woon nie die volgende twee direksievergaderings by nie. By 'n volgende direksievergadering vind Tinyiko uit dat Distribio (Edms) Bpk die kontrak gekanselleer het as gevolg van aanhoudende wanbetalings deur Verytaste (Edms) Bpk. As gevolg van die opskorting in verspreiding het Verytaste (Edms) Bpk verliese ten bedrae van R5 miljoen gely. Gevolglik is Verytaste (Edms) Bpk onder likwidasië geplaas.

Beantwoord die volgende vrae met verwysing na die feitestel:

2.2.1 Vir die verbreking van watter verpligting kan die likwidateur moontlik die direksie aanspreeklik hou vir die verlies gely deur Verytaste (Edms) Bpk? (1)

2.2.2 Hoe sal die hof te werk gaan ten einde te beslis of die direksie aanspreeklik is vir die maatskappy se verlies? Verwys na relevante regspraak in u antwoord. (5)

2.2.3 Verduidelik die verweer wat Tinyiko moontlik kan opper ingevolge die Maatskappywet 71 van 2008 ten einde aanspreeklikheid vry te spring. (4)
[10]

[Lines on following page/Lyne op volgende bladsy]

2.3 John operated a fast food establishment in Durban under a franchise agreement with McTucky's CC. In terms of the agreement, John is not allowed to operate a similar business in the Durban area within three years after the end of the agreement. John does not renew the franchise agreement when its term ends, but continues to operate a fast food restaurant from the same premises that he previously occupied.

McTucky's CC wants to institute an action against John for breach of the original franchise agreement. John's defence is that the new business is owned by a newly incorporated corporation, Macfries CC, which was not a party to the original agreement. John is the sole member of Macfries CC.

Discuss the possibility that the court may lift the corporate veil in these circumstances. Refer to relevant case law in your answer. (5)

2.3 John het 'n wegneemete onderneming bedryf ingevolge 'n franchise-ooreenkoms met McTucky's BK. Ingevolge die ooreenkoms word John nie toegelaat om binne 'n tydperk van drie jaar vanaf die verstryking van die ooreenkoms 'n soortgelyke onderneming te bedryf in die Durban-area nie. John hernu nie die ooreenkoms wanneer die tydperk verstryk nie, maar hou aan om 'n wegneemete onderneming te bedryf vanaf dieselfde perseel wat hy voorheen beset het.

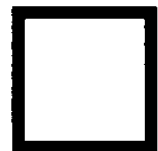
McTucky's BK wil aksie instel teen John vir die verbreking van die oorspronklike franchise-ooreenkoms. John se verweer is dat die nuwe besigheid besit word deur 'n nuut opgerigte korporasie, Macfries BK wat nie 'n party was tot die oorspronklike ooreenkoms nie. John is die enigste lid van Macfries BK.

Bespreek die moontlikheid dat die hof die korporatiewe sluier mag lig in hierdie omstandighede. Verwys na toepaslike regspraak in u antwoord. (5)
[5]

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TOTAL/TOTAAL: 25



QUESTION 3
VRAAG 3

- 3.1 Johannes, Phineas and Beauty are the members of Mnandi CC. Phineas has a gambling problem and his car has been repossessed by the bank as a result of non-payment of his debts. Phineas informs Johannes and Beauty about his financial problems and enquires whether it would be possible for Mnandi CC to provide him with a loan.

Advise Johannes and Beauty regarding the following:

- 3.1.1 What does the Close Corporations Act 69 of 1984 stipulate regarding the loan requested by Phineas? (3)
- 3.1.2 If Phineas is declared insolvent, would it have any influence on their personal estates? (2)
- 3.1.3 If Phineas is declared insolvent, how will his member's interest be disposed of? (3)
- 3.1.4 Can they include a stipulation in the association agreement to ensure that the member's interest will be disposed of in accordance with their wishes if Phineas is declared insolvent? (2)
- [10]

- 3.1 **Johannes, Phineas en Beauty is die lede van Mnandi BK. Phineas het 'n dobbelprobleem en daar is deur die bank beslag geneem op sy motorvoertuig as gevolg van ongedelgde skuld. Phineas lig vir Johannes en Beauty in van sy finansiële probleme. Hy vra of dit moontlik sal wees vir Mnandi BK om aan hom 'n lening toe te staan.**

Adviseer vir Johannes en Beauty rakende die volgende:

- 3.1.1 **Wat bepaal die Wet op Beslote Korporasies 69 van 1984 oor die lening wat Phineas versoek het?** (3)
- 3.1.2 **Indien Phineas insolvent verklaar word, sal dit enige invloed hê op hul persoonlike boedels?** (2)
- 3.1.3 **Indien Phineas insolvent verklaar sou word, hoe sal sy ledebelang vervreem word?** (3)
- 3.1.4 **Kan hulle 'n bepaling in die samewerkingsooreenkoms insluit ten einde te verseker dat die ledebelang volgens hulle voorkeur vervreem sal word ingeval Phineas insolvent verklaar sou word?** (2)
- [10]

3.1.1

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3.1.2

3.1.3

3.1.4

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3.2 Johannes, Phineas and Beauty are the members of Mnandi CC. Beauty has discovered that Phineas concluded a contract on behalf of Mnandi CC for the purchase of a yacht without consent of any of the other members. She is of the opinion that Mnandi CC should not be bound to the contract because the corporation's main business is catering. In addition she shows you the association agreement which stipulates that only Johannes is authorised to conclude contracts on behalf Mnandi CC. Advise Beauty whether or not Mnandi CC is bound to the contract concluded by Phineas. Refer to relevant case law in your answer. (5)

3.2 Johannes, Phineas en Beauty is die lede van Mnandi BK. Beauty het agtergekom dat Phineas 'n kontrak namens Mnandi BK gesluit het vir die koop van 'n seiljag sonder die toestemming van enige van die ander lede. Sy meen dat Mnandi BK nie gebonde behoort te wees aan die kontrak nie aangesien die korporasie se hoofbesigheid spyseniering is. Sy wys verder vir u die samewerkingsooreenkoms wat bepaal dat slegs Johannes gemagtig is om kontrakte namens Mnandi BK te sluit. Adviseer Beauty of Mnandi BK aan die kontrak wat deur Phineas gesluit is gebonde is of nie. Verwys na toepaslike regspraak in u antwoord. (5)

[5]

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- 3.3 Anna, Bert, Chris and Duncan are the members of ProperT CC. The main business of the corporation is buying and selling of immovable property. The close corporation wishes to buy a certain property for development and resale. Duncan, being fully aware of the fact that the close corporation wishes to buy the property, purchases the property in his personal capacity for R2 million. He then sells it to the close corporation for R3 million.

Advise the other members regarding the following:

3.3.1 What duty could Duncan possibly have breached under these circumstances? (1)

3.3.2 What effect would a breach of this duty have on the validity of the contract of sale for the purchase of the property? (2)

3.3.3 What possible legal action can be instituted against Duncan for a breach of this duty and who can institute such an action? (2)
[5]

- 3.3 Anna, Bert, Chris en Duncan is die lede van ProperT BK. Die hoofbesigheid van die onderneming is die koop en verkoop van onroerende eiendom. Die beslote korporasie wil graag 'n sekere eiendom aankoop ten einde dit te ontwikkel en te herverkoop. Duncan, wat bewus is van die feit dat die beslote korporasie die eiendom wil koop, koop die eiendom in sy persoonlike hoedanigheid vir R2 miljoen. Hierna verkoop hy die eiendom aan die beslote korporasie vir R3 miljoen.**

Adviseer die ander lede rakende die volgende:

3.3.1 Welke verpligting het Duncan moontlik onder hierdie omstandighede verbreek? (1)

3.3.2 Watter effek het die verbreking van hierdie verpligting op die geldigheid van die kontrak vir die koop van die eiendom? (2)

**3.3.3 Watter regsaksie kan teen Duncan ingestel word vir die verbreking van hierdie verpligting en wie kan die aksie instel? (2)
[5]**

3.3.1

3.3.2

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3.3.3

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TOTAL/TOTAAL: 20



TOTAL SECTION A/TOTAAL AFDELING A: 70

<p style="text-align: center;">SECTION B AFDELING B</p>

MULTIPLE-CHOICE QUESTIONS**INSTRUCTIONS**

1. Answer all the questions by filling in the answers on the mark reading sheet provided.
2. Use a soft pencil
3. Please ensure that you fill in your student number on the mark reading sheet. All student numbers contain eight digits. In some instances this includes a "0" at the beginning. You must also use the last pink block
4. Each correct answer earns three (3) marks. No marks will be deducted for incorrect answers.

MEERVOUDIGEKEUSEVRAE**INSTRUKSIES**

1. **Beantwoord al die vrae deur die antwoorde in te vul op die merkleesblad wat aan u voorsien is.**
2. **Gebruik 'n sagte potlood.**
3. **Maak seker dat u volle studentennommers op die merkleesblad ingevul word. Alle studentennommers bevat agt getalle. In sommige gevalle sluit dit 'n "0" aan die begin in. U moet ook die laaste pienk blokkie gebruik.**
4. **Elke korrekte antwoord verdien drie (3) punte. Geen punte sal vir verkeerde antwoorde afgetrek word nie.**

QUESTION 1

Indicate the CORRECT statement:

- (1) Two members may be joint holders of the same member's interest in a close corporation
- (2) A trustee of an inter vivos trust may hold a member's interest in a close corporation.
- (3) Insolvents or other legally disabled persons may not become members of a close corporation.
- (4) No juristic person may directly or indirectly hold a member's interest in a close corporation. (3)

VRAAG 1

Dui die KORREKTE stelling aan:

- (1) Twee lede is geregtig om gesamentlike houers van dieselfde ledebelang in 'n beslote korporasie te wees.
- (2) Die trustee van 'n inter vivos trust mag 'n ledebelang in 'n beslote korporasie hou.
- (3) Insolvente persone en ander regsonbevoegde persone mag nie lede van 'n beslote korporasie word nie.
- (4) Geen regs persoon mag direk of indirek enige ledebelang in 'n beslote korporasie hou nie. (3)

QUESTION 2

Indicate the CORRECT statement:

- (1) An association agreement is not a prerequisite for the formation and running of a close corporation.
- (2) The manner in which an insolvent member's estate may be disposed of can be regulated in an association agreement
- (3) The manner in which members will settle disputes may not be regulated in the association agreement.
- (4) The procedure to be followed at meetings may not be regulated in the association agreement. (3)

VRAAG 2

Dui die KORREKTE stelling aan:

- (1) 'n Samewerkingsooreenkoms is nie 'n voorvereiste vir die totstandkoming en bestuur van 'n beslote korporasie nie.
- (2) Die wyse waarop 'n insolvente lid se boedel verdeel word, kan gereguleer word in 'n samewerkingsooreenkoms.
- (3) Die prosedure vir dispuutbeslegting tussen lede mag nie deur 'n samewerkingsooreenkoms gereguleer word nie.
- (4) Die prosedure wat gevolg moet word vir vergaderings mag nie gereguleer word in 'n samewerkingsooreenkoms nie. (3)

QUESTION 3

In terms of the Companies Act 71 of 2008...

- (1) Close corporations that existed before its enactment immediately lost their legal personality.
- (2) No action in terms of the Close Corporation Act 69 of 1984 will be enforceable against the close corporation upon conversion into a company.
- (3) The Close Corporations Act 69 of 1984 is repealed.
- (4) It is no longer possible to incorporate new close corporations. (3)

VRAAG 3

Ingevolge die Maatskappywet 71 van 2008...

- (1) Sal beslote korporasies wat bestaan het voor die inwerkingtrede onmiddellik hul regs persoonlikheid verloor.
- (2) Sal geen aksie ingestel kragtens die Wet op Beslote Korporasies 69 van 1984 afdwingbaar wees teen die beslote korporasie by sy omskakeling na 'n maatskappy nie.
- (3) Is die Wet op Beslote Korporasies 69 van 1984 herroep.
- (4) Sal dit nie meer moontlik wees om nuwe beslote korporasies op te rig nie. (3)

QUESTION 4

Choose the **CORRECT** statement:

If a member of a close corporation fails to act with the required degree of care and skill...

- (1) He or she will be liable for all the corporation's debts.
- (2) He or she will be liable even if the corporation did not incur a loss.
- (3) He or she will be liable for the loss caused by his or her actions.
- (4) A member will incur liability for negligent acts even if written approval of all the members have been obtained. (3)

VRAAG 4

Kies die **KORREKTE** stelling:

Indien 'n lid van 'n beslote korporasie versuim om met die vereiste graad van sorg en vaardigheid op te tree...

- (1) Sal hy of sy aanspreeklik wees vir al die korporasie se skulde.
- (2) Sal hy of sy aanspreeklik wees al het die korporasie geen skade gely nie.
- (3) Sal hy of sy aanspreeklik wees vir die verlies voortspruitend uit sy of haar aksies.
- (4) Sal 'n lid aanspreeklikheid opdoen vir nalatige optrede selfs al was die skriftelike toestemming van al die lede verkry. (3)

QUESTION 5

Choose the INCORRECT option:

- (1) Common law methods of entering into a pre-incorporation contract are no longer applicable.
- (2) Pre-incorporation contracts are entered into on behalf of a company which is not yet in existence.
- (3) The Companies Act 71 of 2008 requires that pre-incorporation contracts must be put in writing.
- (4) A person entering into a pre-incorporation contract has the intention that the company will be bound by the provisions thereof, once it is incorporated. (3)

VRAAG 5

Kies die VERKEERDE opsie:

- (1) Gemeenregtelike metodes om voorinkorporasiekontrakte aan te gaan, is nie meer van toepassing nie.
- (2) Voorinkorporasiekontrakte word gesluit namens 'n maatskappy wat nog nie bestaan nie.
- (3) Die Maatskappywet 71 van 2008 vereis dat voorinkorporasiekontrakte op skrif gestel moet wees.
- (4) 'n Persoon wat 'n voorinkorporasiekontrak sluit het die bedoeling dat die maatskappy wanneer dit opgerig is aan die bepalings daarin vervat gebonde sal wees. (3)

QUESTION 6

Choose the CORRECT statement:

- (1) A private company and a non-profit company must have at least 3 directors.
- (2) Upon incorporation of a new company each founding member is considered to be a director.
- (3) If a company initially has too few directors as a result of disqualification of one of its directors, the Commission may reject the company's Notice of Incorporation.
- (4) A public company may in its Memorandum of Incorporation determine that less than three directors may be appointed and such a clause would be valid. (3)

VRAAG 6

Kies die KORREKTE stelling:

- (1) 'n Private maatskappy en 'n maatskappy sonder 'n winsoogmerk moet minstens 3 direkteure hê.
- (2) Wanneer 'n nuwe maatskappy ingelyf word, word elke stigterslid beskou as 'n direkteur.
- (3) Indien 'n maatskappy aanvanklik te min direkteurs het as gevolg van diskwalifikasie van een van die direkteure, mag die Kommissie die maatskappy se Kennisgewing van Inkorporasie verwerp.
- (4) 'n Publieke maatskappy mag in die maatskappy se Akte van Oprigting bepaal dat minder as drie direkteure aangestel mag word en sodanige klousule sal geldig wees. (3)

QUESTION 7

Indicate the CORRECT statement:

- (1) In terms of the Companies Act 2008 a specific person may not be appointed as a company auditor for longer than 3 continuous years.
- (2) A private company that is appointed as company auditor may only serve a company for a maximum of 5 years.
- (3) A public company must appoint an auditor annually at its annual general meeting.
- (4) An individual that was appointed as a company's auditor for longer than a year and then resigned as the auditor, may not before 3 financial years have lapsed be reappointed as the company auditor. (3)

VRAAG 7

Dui die KORREKTE stelling aan:

- (1) Ingevolge die Maatskappywet 71 van 2008 mag 'n spesifieke persoon nie vir langer as 3 aaneenlopende jare aangestel wees as 'n maatskappy se ouditeur nie.
- (2) 'n Private maatskappy wat as ouditeur aangestel is van 'n maatskappy mag slegs diens lewer aan die maatskappy vir 'n maksimum van 5 jaar.
- (3) 'n Publieke maatskappy moet jaarliks 'n ouditeur aanstel op die algemene jaarvergadering.
- (4) 'n Individu wat as maatskappy ouditeur aangestel is vir langer as 'n jaar en wat dan bedank, mag nie voordat 3 finansiële jare verloop het heraangestel word as die maatskappy se ouditeur nie. (3)

QUESTION 8

Which one of the following persons/entities is disqualified to be a director, but may be appointed as a director of a company with the permission of the court?

- (1) A minor.
- (2) A person who has been convicted of murder
- (3) An unrehabilitated insolvent.
- (4) A body corporate. (3)

VRAAG 8

Watter een van die volgende persone/ entiteite is gediskwalifiseerd om 'n direkteur te wees, maar mag aangestel word as 'n direkteur van 'n maatskappy met die toestemming van die hof?

- (1) 'n Minderjarige.
- (2) 'n Persoon wat skuldig bevind is aan moord.
- (3) 'n Ongerehabiliteerde insolvent.
- (4) 'n Regspersoon. (3)

QUESTION 9

According to the Companies Act 71 of 2008, for the incorporation of a company the following documents must be filed together with the prescribed fee: the Memorandum of Incorporation and the ...

- (1) Association agreement
- (2) Founding statement
- (3) Notice of Incorporation
- (4) Notice of first directors of the company (3)

VRAAG 9

Ingevolge die Maatskappywet 71 van 2008 moet die volgende dokumente saam met die voorgeskrewe fooi ingedien word ten einde 'n maatskappy te registreer: die Akte van Oprigting en die ...

- (1) Samewerkingsooreenkoms.
- (2) Stigtingsverklaring.
- (3) Kennisgewing van Inkorporasie.
- (4) Kennisgewing van die eerste direkteure van die maatskappy. (3)

QUESTION 10

Choose the **INCORRECT** statement:

Incorporation of a company has various consequences for shareholders and directors, including:

- (1) Shareholders are generally not held liable for the debts of a private company.
- (2) Shareholders are generally not held liable for the debts of a public company.
- (3) Directors are generally not held liable for the debts of a personal liability company
- (4) Directors are generally not held liable for the debts of a state-owned enterprise. (3)

VRAAG 10

Kies die stelling wat **VERKEERD** is:

Inkorporasie van 'n maatskappy hou verskeie gevolge vir aandeelhouers en direkteure in, onder andere:

- (1) **Aandeelhouers word gewoonlik nie vir die skuld van 'n private maatskappy aanspreeklik gehou nie.**
- (2) **Aandeelhouers word gewoonlik nie vir die skuld van 'n publieke maatskappy aanspreeklik gehou nie.**
- (3) **Direkteure word gewoonlik nie vir die skuld van 'n maatskappy met persoonlike aanspreeklikheid, aanspreeklik gehou nie.**
- (4) **Direkteure word gewoonlik nie vir die skuld van 'n maatskappy in staatsbesit aanspreeklik gehou nie. (3)**

TOTAL FOR SECTION B/TOTAAL VIR AFDELING B: 30

TOTAL/TOTAAL: 100

END OF PAPER / EINDE VAN VRAESTEL

PART 1 (GENERAL/ALGEMEEN) DEEL 1

STUDY UNIT e.g. PSY100-X STUDIE-EENHEID by PSY100-X		INITIALS AND SURNAME VOORLETTERS EN VAN	
1		3	
PAPER NUMBER VRAESTELNOMMER		DATE OF EXAMINATION DATUM VAN EKSAMEN	
2		4	
STUDENT NUMBER STUDENTENOMMER		EXAMINATION CENTRE (E.G. PRETORIA) EKSAMENSENTRUM (BY PRETORIA)	
6		5	
7		8	
9		9	

For use by examination invigilator
Vir gebruik deur eksamenopsiener

IMPORTANT

- 1 USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
- 2 MARK LIKE THIS ➡
- 3 CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
- 4 ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
- 5 CHECK THAT YOUR STUDENT NUMBER HAS BEEN FILLED IN CORRECTLY
- 6 CHECK THAT THE UNIQUE NUMBER HAS BEEN FILLED IN CORRECTLY
- 7 CHECK THAT ONLY ONE ANSWER PER QUESTION HAS BEEN MARKED
- 8 DO NOT FOLD

BELANGRIK

- 1 GEBRUIK SLEGS N HB POTLOOD OM HIERDIE BLAD TE VOLTOOI
- 2 MERK AS VOLG ➡
- 3 KONTROLEER DAT U VOORLETTERS EN VAN REG INGEVUL IS
- 4 VUL U STUDENTENOMMER VAN LINKS NA REGS IN
- 5 KONTROLEER DAT U DIE KORREKTE STUDENTENOMMER VERSTREK HET
- 6 KONTROLEER DAT DIE UNIEKE NOMMER REG INGEVUL IS
- 7 MAAK SEKER DAT NET EEN ALTERNATIEF PER VRAAG GEMERK IS
- 8 MOENIE VOU NIE

PART 2 (ANSWERS/ANTWOORDE) DEEL 2

1	c1) c2) c3) c4) c5)	36	c1) c2) c3) c4) c5)	71	c1) c2) c3) c4) c5)	106	c1) c2) c3) c4) c5)
2	c1) c2) c3) c4) c5)	37	c1) c2) c3) c4) c5)	72	c1) c2) c3) c4) c5)	107	c1) c2) c3) c4) c5)
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4	c1) c2) c3) c4) c5)	39	c1) c2) c3) c4) c5)	74	c1) c2) c3) c4) c5)	109	c1) c2) c3) c4) c5)
5	c1) c2) c3) c4) c5)	40	c1) c2) c3) c4) c5)	75	c1) c2) c3) c4) c5)	110	c1) c2) c3) c4) c5)
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15	c1) c2) c3) c4) c5)	50	c1) c2) c3) c4) c5)	85	c1) c2) c3) c4) c5)	120	c1) c2) c3) c4) c5)
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19	c1) c2) c3) c4) c5)	54	c1) c2) c3) c4) c5)	89	c1) c2) c3) c4) c5)	124	c1) c2) c3) c4) c5)
20	c1) c2) c3) c4) c5)	55	c1) c2) c3) c4) c5)	90	c1) c2) c3) c4) c5)	125	c1) c2) c3) c4) c5)
21	c1) c2) c3) c4) c5)	56	c1) c2) c3) c4) c5)	91	c1) c2) c3) c4) c5)	126	c1) c2) c3) c4) c5)
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23	c1) c2) c3) c4) c5)	58	c1) c2) c3) c4) c5)	93	c1) c2) c3) c4) c5)	128	c1) c2) c3) c4) c5)
24	c1) c2) c3) c4) c5)	59	c1) c2) c3) c4) c5)	94	c1) c2) c3) c4) c5)	129	c1) c2) c3) c4) c5)
25	c1) c2) c3) c4) c5)	60	c1) c2) c3) c4) c5)	95	c1) c2) c3) c4) c5)	130	c1) c2) c3) c4) c5)
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27	c1) c2) c3) c4) c5)	62	c1) c2) c3) c4) c5)	97	c1) c2) c3) c4) c5)	132	c1) c2) c3) c4) c5)
28	c1) c2) c3) c4) c5)	63	c1) c2) c3) c4) c5)	98	c1) c2) c3) c4) c5)	133	c1) c2) c3) c4) c5)
29	c1) c2) c3) c4) c5)	64	c1) c2) c3) c4) c5)	99	c1) c2) c3) c4) c5)	134	c1) c2) c3) c4) c5)
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31	c1) c2) c3) c4) c5)	66	c1) c2) c3) c4) c5)	101	c1) c2) c3) c4) c5)	136	c1) c2) c3) c4) c5)
32	c1) c2) c3) c4) c5)	67	c1) c2) c3) c4) c5)	102	c1) c2) c3) c4) c5)	137	c1) c2) c3) c4) c5)
33	c1) c2) c3) c4) c5)	68	c1) c2) c3) c4) c5)	103	c1) c2) c3) c4) c5)	138	c1) c2) c3) c4) c5)
34	c1) c2) c3) c4) c5)	69	c1) c2) c3) c4) c5)	104	c1) c2) c3) c4) c5)	139	c1) c2) c3) c4) c5)
35	c1) c2) c3) c4) c5)	70	c1) c2) c3) c4) c5)	105	c1) c2) c3) c4) c5)	140	c1) c2) c3) c4) c5)

Specimen only