



## Part One – Chartered Governance Qualifying Programme

# Company Law

**Time allowed:** 3 hours (plus 15 minutes reading time)

**You must not take this paper out of the examination workspace.**

The examination paper contains **9** questions of which you must attempt **8**. You must attempt **all questions** in Section A and **3 questions** in Section B.

Section A contains 25 marks and Section B contains 75 marks. There are **100 marks** available in total for the paper.

**Note:**

Unless otherwise specified, you should assume that an Act or an organisation referred to in the questions is a Malaysian Act or organisation.

## Section A

Answer **all** the questions in this section.

1. What is an “off the shelf” company? Explain the advantages and disadvantages of such companies.

**(5 marks)**

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2. Explain the differences between a 'private company' and a 'public company'.

**(5 marks)**

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3. List five types of companies that can be incorporated under the Companies Act 2016.

**(5 marks)**

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4. Section 74 of the CA2016 provides that shares in a company shall have no par or nominal value. Explain the rationale for the migration to no par value regime. **(5 marks)**

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5. Who has the right to inspect or obtain a copy of a company's register of members? Explain the procedure which must be followed.

**(5 marks)**

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**TOTAL FOR SECTION A = 25 MARKS**

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## Section B

Answer **three** questions only.

### Question 6

Rob and Dom have run a successful health food business in partnership for many years. In 2020 they decided to incorporate the business, and Camel Health Sdn Bhd (“Camel”) was formed. Camel has an issued share capital of RM60,000 which comprises 50,000 ordinary shares and 10,000 preference shares. All shares are fully paid. Since 2020 the company has been struggling financially. It has few assets and has run up a debt of over RM50,000 with Zebra Bhd, one of its largest suppliers.

Camel’s constitution states: “The holders of preference shares are entitled to a fixed dividend of 10 sen per share and preferential repayment of capital on a winding up of the company”.

Liz has recently joined Camel’s board as a director and has expressed concern about the company’s financial situation. She is unhappy with the preference share arrangements. Liz suggests that the directors should cancel the preference shares and pay off the preference shareholders. If that is not possible, they should reduce the percentage of the preferential dividend to 5 sen per share. Rob and Dom agree. May, who holds 2,500 preference shares, learns of their plans, and warns them that she will not approve the cancellation.

#### **REQUIRED:**

Advise Camel’s directors.

**[Total for Question 6 = 25 marks]**

### **Question 7**

Sarang Bhd (Sarang) is a furniture retail company. It has two directors, Ravi, and Shoba, who are also the company's only shareholders with 50% each of the company's shares. On 31 March 2023 Sarang was placed in compulsory liquidation.

The liquidator sold the available assets of the company. Stock in a rented warehouse was sold for RM90,000, the company's three vehicles were sold for RM100,000, and a balance of RM10,000 was left in the company bank account.

The liquidator has discovered that Sarang has an outstanding corporation tax bill of RM22,000. She has also discovered a secured loan from Burung Bank of RM30,000. The full loan is still outstanding, and no repayments have been made. The charge instrument, dated 10 September 2019, states that the loan is secured by a fixed charge over all Sarang's assets and business. The liquidator notices that the Bank has allowed Sarang to continue to deal with its bank account, book debts and stock without restriction.

Several of Sarang's suppliers have also submitted claims to the liquidator. There is an outstanding debt of RM60,000 to Merpati Bhd for IT equipment; the company owes RM30,000 in rent to its landlord Gagak Sdn Bhd; and there is a debt of RM10,000 to Swift Sdn Bhd for cleaning services. All these debts are unsecured.

Fifteen employees have come forward with claims for unpaid wages from two months leading up to the liquidation. Each of the employees is claiming RM5,000.

The liquidator's fee is RM12,000 and she has incurred additional expenses of around RM6,000.

#### **REQUIRED:**

Explain how Sarang's assets will be distributed. Include in your answer a calculation showing the amount that each of the company's creditors will receive.

**[Total for Question 7 = 25 marks]**

### Question 8

Pandai Bhd (“Pandai”) is a company offering management consultancy services. Its directors are Karim, Larry and Benson. The company’s constitution contains the following objects clause:

*“The Company may engage in any activity directly related or incidental to the carrying out of management consultancy services”.*

Pandai has recently signed a contract to provide management consultancy services to a new client: Warna- Warni Sdn Bhd (“Warna”), an online clothing retailer. The directors know that Warna has a reputation for low pay and poor treatment of workers. They have also seen evidence that its production methods are not environmentally friendly. Furthermore, Warna has recently been the subject of some negative press coverage relating to its tax affairs. Benson is unhappy with the deal, which he believes will damage Pandai’s reputation, but Karim insists that Warna pays well, and the deal offers opportunities to make significant profits.

The directors of Pandai agree to lend RM80,000 of the company’s funds to Maryam, Karim’s sister. The money is transferred to Maryam, and she signs a contract agreeing to repay it in interest-free instalments over 5 years. Maryam uses the money to buy a car. Some of Pandai’s shareholders find out about the loan and demand that the money is repaid immediately.

#### **REQUIRED:**

- (a) Discuss whether the directors of Pandai are in breach of any general duties under the CA 2016 with regards to the transaction with Warna.

**(7 marks)**

(b) Is the loan agreement between Maryam and Pandai valid?

**(18 marks)**

**[Total for Question 8 = 25 marks]**

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### Question 9

In 2018, two friends, Mark and Louis, set up an advertising agency in partnership. Over time the business grew to become very profitable. Following advice from their lawyer, in 2021 Mark and Louis decided to incorporate it as a company. A notice of registration for MLA Bhd was issued on 10 November 2021. The company has a constitution, with the following clauses:

- (i) A director may be removed from office at any time by a decision of the board.
- (ii) On any resolution to remove a director, Louis will be entitled to 5 votes per share.

Mark and Louis were the only directors. The company had 1000 shares and Mark and Louis held 500 shares each.

In January 2022, Mark's sister Maria decided to invest in the company. Mark and Louis both transferred 100 shares each to Maria. It quickly became clear that Louis disagreed with Mark and Maria about the future direction of the company, and there was a heated argument. In December 2022, Mark and Maria called a general meeting where an ordinary resolution was passed to remove Louis as a director.

Louis is angry and upset. He tells you that the meeting took him by surprise: it was called with only a day's notice, and no agenda was circulated beforehand.

#### **REQUIRED:**

Advise Louis:

- (a) Whether his removal as a director was valid/ lawful.

**(10 marks)**

- (b) Whether any other personal remedies under the CA 2016 are available to him.  
**(15 marks)**

**[Total for Question 9 = 25 marks]**

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**TOTAL FOR SECTION B = 75 MARKS**

**TOTAL FOR PAPER = 100 MARKS**

*The scenarios included here are entirely fictional. Any resemblance of the information in the scenarios to real persons or organisations, actual or perceived, is purely coincidental.*

**END**