



CS PART II SECTION 4

CORPORATE SECRETARIAL PRACTICE

THURSDAY: 29 November 2018.

Time Allowed: 3 hours.

Answer ALL questions. Marks allocated to each question are shown at the end of the question.

QUESTION ONE

MATIP CONSTRUCTION COMPANY LTD. (MCCL)

Matip Construction Company Ltd. was founded by two sisters, Fatuma May and April Jane in 1990. The company was registered as a private company with a share capital of 1,000 ordinary shares, each valued at Sh.10.

Fatuma May held 800 shares and the balance of the shares were held by April Jane. Both of them were directors of the company. The day to day management of the company was carried out by Fatuma May who performed the role of the managing director.

The company had two more directors who held no shares in the company. MCCL faced numerous conflicts in the late 1990's between the two founder members making it difficult for the board meetings to reach decisions. April Jane was particularly unhappy with loans to directors, her argument being that the loans were illegal. She felt that the managing director exercised more powers than allowed for the position.

At one board meeting and with the influence of Fatuma May, the directors of MCCL proposed to increase the company's share capital. The shares were to be increased from 1,000 to 2,000 with the additional shares carrying voting rights. All directors except April Jane would each receive 250 shares.

The company sent a notice of an extra-ordinary general meeting to all directors and shareholders including April Jane. The meeting was to approve the increase in share capital and the proposed allotment of shares. Before the meeting was held, April Jane's lawyer sent a letter to the company objecting the proposed increase in capital and formulae for allotment of shares. April Jane felt that she would be disadvantaged if the resolutions were to pass. The proposed alterations according to her were also not provided for in the articles of association. The managing director wrote back to her stating that although the managing director was fully aware of the facts, the resolutions would benefit the company if passed.

**Required:**

As a company secretary hired by Matip Construction Company Ltd. (MCCL):

- (a) Advise the company on:
- (i) Administrative tasks that could be out of the scope of authority of the managing director. (4 marks)
  - (ii) April Jane's position about the illegality of loans to directors of MCCL. (2 marks)
  - (iii) The conditions that the motion presented at the extra-ordinary general meeting ought to have satisfied in order to be considered valid. (8 marks)
- (b) (i) Draft the resolution to increase the company's share capital. (2 marks)
- (ii) Explain the actions that you as the company secretary of MCCL would have taken after the passing of the resolution in (b) (i) above. (4 marks)

**(Total: 20 marks)**

QUESTION TWO

- (a) Bamboo Ltd., a company registered in Kenya wishes to convert to a public limited company.

Describe five requirements which must be fulfilled by Bamboo Ltd. to facilitate the conversion. (5 marks)

- (b) Bedzima Mengi, a newly appointed director of Wepo Ltd., a public limited company, has approached you for advice on “resolutions which require special notice”.

Advise Bedzima Mengi on:

- (i) The meaning of the term “ordinary resolution requiring special notice”. (2 marks)
- (ii) Four types of resolutions which require special notice. (4 marks)

- (c) Emperor Incorporation, a company registered in the United States of America wishes to establish a foreign branch in your country.

Enumerate nine requirements of registering a foreign company in your country. (9 marks)

**(Total: 20 marks)**

### QUESTION THREE

- (a) One of the statutory duties of a corporate secretary (CS) is to ensure safety and security of the company seal.

With reference to the above statement, describe five measures that the corporate secretary should take to prevent possible misuse of the seal. (5 marks)

- (b) Apeng Ding has been appointed as the company secretary of Pwat PLC.

Assess five roles which Apeng Ding could play to ensure efficiency of Pwat PLC’s Board. (5 marks)

- (c) You have been tasked to prepare a training manual to be used to induct a newly established board of directors in your company.

Highlight ten matters that you would include in the Board induction training manual. (10 marks)

**(Total: 20 marks)**

### QUESTION FOUR

- (a) In the context of employee benefit trusts, explain the following terms:

- (i) The settlor. (2 marks)
- (ii) The trustee. (2 marks)
- (iii) The beneficiaries. (2 marks)

- (b) Assess five reasons why an organisation might establish an employee benefit trust. (10 marks)

- (c) Although the company secretary is the chief administrative officer of a company with regard to corporate secretaryship, there are certain actions which are beyond the authority of the company secretary.

With reference to the above statement, list four such actions. (4 marks)

**(Total: 20 marks)**

### QUESTION FIVE

- (a) Summarise three features of corporate communication that the corporate secretary as a board communicator should be aware of. (3 marks)

- (b) You are the newly appointed corporate secretary of Dreyfus Limited which has operated without a company secretary for many years. You have discovered that the company has not filed its annual returns and is in default. Dreyfus Limited also recently appointed two new members to its board of directors.

- (i) Explain to the directors two contents of an annual return as per Section 706 of the Companies Act 2015. (2 marks)
- (ii) Describe to the newly appointed board members six types of registers that a company is required to maintain by law. (6 marks)

- (c) Pandeleo Limited issued shares at a premium and the premium was transferred to a share premium account.

Highlight five permitted uses of the share premium proceeds. (5 marks)

- (d) The company you work for has declared a dividend and you have been tasked with designing dividend warrants for printing.

Highlight four contents of a dividend warrant. (4 marks)

**(Total: 20 marks)**

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