



COLLEGE OF BUSINESS, PEACE, LEADERSHIP AND GOVERNANCE

NMMS 210: COMPANY LAW AND PRACTICE

END OF SECOND SEMESTER EXAMINATIONS

MAY 2021

LECTURER: MS N KUTURE

TIME: 7 Hours

INSTRUCTIONS

Choose and answer **three** questions

Start **each** question on a new page in your answer booklet

Candidates are reminded that answers should be supported by reference to relevant case law and statutes.

Candidates may make reference to the Companies and Other Business Entities Act [Chapter 24:31]

Credit will be awarded for logical, systematic and neat presentations

Question 1 “In my view, the court has no general discretion to disregard the company’s separate legal personality whenever it considers it just to do so. The court may ‘lift the veil’ only where otherwise as a result of its existence, fraud would exist or manifest justice would be denied.” Per Ndou in *Mkombachoto v Commercial Bank of Zimbabwe Ltd & Anor* 2002 (1) ZLR 21 @26E.

Critically assess the above dictum in light of the common law and statutory exceptions to the concept of separate legal personality and lifting of the corporate veil. [20 marks]

Question 2

A company is a body corporate composed of persons whose liability is limited to the capital which each agrees to contribute to the business, such capital being commonly divided into shares which are transferable by the owner to another. Discuss the various characteristics and advantages of public and private limited companies in relation to other types of business entities that exist in Zimbabwe.

[20 marks]

Question 3

‘If powers of management are vested in the directors, they and they alone can exercise these powers...Shareholders cannot themselves usurp the powers which by articles are vested in the directors any more than the directors can usurp the powers vested by the articles in the general body of shareholders...’ per Greer LJ in *John Shaw & Sons v Shaw* (1935) 2 KB 113 at 134.

Discuss with reference to case law and statute how shareholders can protect themselves or may get protection against abuse of power by directors. [20 Marks]

Question 4

The Companies and Other Business Entity Act places a heavy duty on directors to see that a company has acted within its powers, and that its transactions are regular and orderly. Discuss the above statement with regard to the duties and responsibilities of Directors as stipulated by case law and the law on Companies.

[20 marks]

Question 5

(a) Company law respects the concept of corporate democracy. Decisions of the majority are not likely to be overturned. Discuss the validity of this statement in light of the new Companies Act, the Companies Act and other Business Entities Act and common law.

(b) Write short notes on how the Companies and other business entity act and common law protects

1. The members of the public
2. Shareholders
3. Creditors
4. Write short notes on the liquidation of a company

[20 marks]

END OF EXAMINATION