

FINAL MOCK – CRASH COURSE WINTER 2013 – SOLUTION WITH MARKING SCHEME

T.MARKS= 100	CORPORATE LAWS	TIME: 3 HOURS
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Q1

a)

- Any document or additional detail required to be filed or lodged with the SECP or the Registrar under the Ordinance may be submitted electronically
- Any form prescribed under these rules shall be authenticated by companies by affixing electronic signature or advanced electronic signature, as defined under Electronic Transactions Ordinance, 2002, (LI of 2002).
- The filing of electronic documents with the SECP or the registrar, as the case may be, shall be made from the date of launching of any E-Services Project of the SECP, provided that for a period to be determined by the SECP from time to time, the submission of documents in paper form shall be permissible.
- From date of launching of any E-Services Project, the Co shall file any additional document required to be submitted to the SECP or the registrar under the Ordinance, in a scanned form.
- The fee for the filing of documents may be paid through any of the acceptable methods of payment specified by SECP from time to time.
- The SECP may provide e-service for the electronic filing or lodging of documents required under the Ordinance to be filed or lodged with the SECP or the registrar.
- A copy of or an extract from any document electronically filed or lodged with the SECP or the registrar under these rules or supplied or issued by the SECP or the registrar shall be admissible in evidence in any proceedings as of equal validity as the original document.
- Where a document is electronically filed or lodged, the SECP or the registrar shall not be liable for any loss or damage suffered by any person by reason of any error or omission, if such error or omission was made in good faith and in the ordinary course of the discharge of the duties of the SECP or the registrar or was -service

Topic	Companies (General Provisions and Forms) Rules 1985 – Rule 9
Broad Area of ICAP Syllabus	Rules
Marking Scheme	1 mark each for every valid point (8 x 1 = 8 Marks)

b)

- Since BUFFALO Limited is a listed company, unless the articles provide for a larger number the quorum of a general meeting shall not be less than ten members present personally, who represent not less than twenty-five percent of the total voting power, either of their own account or as proxies.
- In BUFFALO limited only four shareholders turned up to attend the meeting and therefore the quorum were not formed.
- If the quorum is not present within half an hour from the time appointed for the meeting, the Chairman shall adjourn the meeting and the meeting shall stand adjourned to the same day in the next week at the same time and place.
- At the adjourned meeting if a quorum is not present within half an hour from the time appointed for the meeting, the members present, being not less than two, shall be a quorum, unless the articles provide otherwise.

Topic	Meetings
Broad Area of ICAP Syllabus	Companies Ordinance 1984 – Moule D
Marking Scheme	1 Mark Each for each valid point

Q2

(a)

Since it is proposed by the directors of PIGEON Limited to wind up the company voluntarily all its directors and in case the company has more than three directors, the majority of the directors, including the chief executive, may, at a meeting of the board of directors make a declaration verified by an affidavit

A declaration made as aforesaid shall have no effect for the purposes of this Ordinance, unless-

(i) It is made within the five weeks immediately preceding the date of the passing of the resolution for winding up and is delivered to the registrar for registration before that date; and

(ii) It is accompanied by a copy of the report of the auditors of the company, prepared, so far as the circumstances admit, in accordance with the provisions of this Ordinance, on the profit and loss account of the company for the period commencing from the date up to which the last such account was prepared and ending with the latest practicable date immediately before the making of the declaration and the balance sheet of the company made out as on the last mentioned date and also embodies a statement of the company's assets and liabilities as at that date.

(b) In a declaration of solvency the directors declare that they have made a full inquiry into the affairs of the company, and that having done so, they have formed the opinion that the company has no debts, or that it will be able to pay all its debts in full within such period not exceeding twelve months from the commencement of the winding up, as may be specified in the declaration.

Topic	Voluntary Winding up
Broad Area of ICAP Syllabus	Advance Areas
Marking Scheme	Part a – 8 Marks
	= Numbering of Directors 2 Marks
	= Condition (i) 2 Marks
	= Condition (ii) 4 Marks
	Part b – 2 Marks

Q3

NOTICE IS HEREBY GIVEN that the **nth Annual General Meeting of Horse Limited** will be held at **XYZ Location** on **Friday, 28th December, 2013** at **10:00 a.m.** to transact the following business:

A. ORDINARY BUSINESS

1. To receive and consider the Audited Accounts for the year ended September 30, 2013 and the Directors' and Auditors' Reports thereon.
2. To appoint Auditors and fix their remuneration.

B. SPECIAL BUSINESS

3. To consider, and if thought fit, to pass the following resolution as an Special Resolution:

"RESOLVED that an investment of Rs 25 Million is to be made in Eagle Limites (an associated company)".

A statement under Section 160 of the Companies Ordinance, 1984 setting forth all material facts concerning the Resolution contained in item (3) of the Notice which will be considered for adoption at the Meeting is annexed to this Notice of Meeting being sent to Members.

N.B

- 1) The share transfer books of the Company will be closed from _____ to _____ (both days inclusive). Transfers received in order at the office or our Registrar, M/s. ABC, <Address>>> by the close of business (5:00p.m) on Date will be treated as being in time for the purposes to attend the meeting.
- 2) A member entitled to attend and vote at this Meeting shall be entitled to appoint another person, as his/her proxy to attend, speak and vote instead of him/her, and a proxy so appointed shall have such rights, as respects attending, speaking and voting at the Meeting as are available to a member. Proxies, in order to be effective, must be received by the Company not less than 48 hours before the Meeting. A proxy need not be a member of the Company.

STATEMENT UNDER SECTION 160 OF THE COMPANIES ORDINANCE, 1984

This Statement is annexed to the Notice of the nth Annual General Meeting of Horse Limited to be held on Friday 28th December 2013 at which certain Special Business is to be transacted. The purpose of this Statement is to set forth the material facts concerning such Special Business.

ITEM (3) OF THE AGENDA

As per the requirements of section 208 of the Companies Ordinance 1984, a special resolution is required to make investment in associates. We intend to invest Rs 25 million to purchase 1 million shares of Eagle Limited having market value of Rs 25 per share from an existing shareholder Mr Nawab Shah. Mr Nawab Shah has approached the company and had offered to sell his shares to the company on this agreed amount.

We shall be completing the transaction on the 10th of January 2014.

By Order of the Board
ABC
Company Secretary

<<City>>
Decemebr 05, 2013

Topic
Broad Area of ICAP Syllabus
Marking Scheme

Meetings

Secretarial Practices / Module D

0.5 Mark each for mentioning.....

- 1) Date of AGM
- 2) Time
- 3) Place
- 4) Company Name
- 5) Heading Ordinary business
- 6) 2 Contents of Ordinary Business
- 7) Heading Special business
- 8) Content of special business
- 9) Identifying that this resolution would be passed as "Special Resolution" not ordinary
- 10) Reference of Statement in special Business
- 11) Heading of Notes
- 12) Contents of notes
- 13) Heading of statement under section 160
- 14) Contents of statement
- 15) Giving reference in statement of agenda item for which it is given
- 16) Company Secretary
- 17) City of registered office
- 18) Date of notice

Note: 1 additional mark for overall presentation of the notice
 (If any 2 contents from above 18 are missed, even then complete numbers can be achieved by good presentation)

Q4

(a)

Deceptive Marketing Practices

An undertaking shall NOT enter into the deceptive marketing practices. Deceptive marketing practices shall be deemed to be continued in following circumstances:

- Distribution of false/misleading information capable of harming business interests of other undertaking.
- Distribution of false/misleading information to customers lacking reasonable basis about prices, character, method or place of production, properties, suitability for use or quality of goods
- False or misleading comparison of goods in advertising
- Fraudulent use of another's trademark, firm name, product labeling or packaging

Topic
Broad Area of ICAP Syllabus
Marking Scheme

Competition Act 2010

Other Laws

1 Mark each for 1st 2 points

0.5 Mark each for last 2 points

(b).

Abuse of Dominant Position

Abuse of dominant position is prohibited. An abuse of dominant position consists of practices which prevent, restrict, reduce or distort competition in the relevant market.

Examples of such practices include:

- Limiting production, sale and unreasonable increase in prices or other unfair trading conditions.
- Charging different prices from different customers for the same goods or services without justification (price discrimination).
- Making sale conditional with purchase of other goods or services (tie-ins).
- Making the conclusion of contract subject to the acceptance of others.
- Dissimilar conditions for equivalent transactions for different parties (competitive disadvantage).
- Exit the competitor; prevent new entry and creating monopoly in the market by predatory prices.
- Boycott, exclude other undertaking from production, distribution or sale of goods or services.
- Refusal to deal.

Topic	Competition Act 2010
Broad Area of ICAP Syllabus	Other Laws
Marking Scheme	2 Marks for explaining the term Dominant Position 1 Mark each for 7 examples

Q5Basis for application

A winding up application against Rabbit Modaraba may be filed on ground that accumulated losses of Modaraba have exceed 50% of the paid up capital.

Applicant

Registrar can make application in the given situation

Authority

Modaraba Tribunal

Topic	Modaraba
Broad Area of ICAP Syllabus	Other Laws
Marking Scheme	2 marks for basis, 1.5 marks each for identifying the applicant and the authority (2 + 1.5 + 1.5 = 5 Marks)

Q6List of documents to be submitted by LBL

- Certified copy of charter, statute, MOA & AOA or other instrument defining constitution in English/Urdu(or translation in English/Urdu)
- Full address of Registered Office or Principal Office in the country of incorporation
- List of directors, chief executive and secretaries with detailed particulars.
- Return showing complete particulars of Principal Officer in Pakistan.
- Complete particulars of Persons authorized to receive notices etc. together with his consent.
- Full address of office in Pakistan, deemed to be Principal Office in Pakistan.
- Return containing particulars of change, where any change in above info / docs, within 30 days of change

Formalities relating to filing of Accounts

Prescribed number of copies (not less than 3) of audited Balance Sheet and Profit & Loss Account with such particulars as are required to be filed by a Co registered in Pakistan shall be filed within earlier of

- 45 days of date of submission to the public authority of Mauritius, or
- Within 6 months of the date up to which accounts are prepared

Topic	Companies Established Outside Pakistan
Broad Area of ICAP Syllabus	Companies Ordinance – Advance Areas
Marking Scheme	4 mark for documents to be filed and 3 marks for filing of accounts [4 + 3 = 7 Marks]

Q7:**a)**

- Not less than 10% of class of shareholders aggrieved by variation of their rights may, within 30 days of resolution, apply to Court for an order canceling the resolution
- Application may be made by any one or more of their number (as they may authorise in writing)

Topic	Alteration in articles
Broad Area of ICAP Syllabus	Companies Ordinance – Module D
Marking Scheme	- 10% apply to court = 1 mark - Within 30 days = 1 mark - Any 1 or more authorised can apply = 1 mark

b)

- Court shall pass an order of cancellation of the decision of the company if the court is satisfied that
 - Some facts which would have had a bearing on decision of the shareholders were withheld by the Company in getting resolution passed or,
 - Variation would unfairly prejudice shareholders of that class.
- Decision of the Court on any such application shall be final.

Topic	Alteration in articles
Broad Area of ICAP Syllabus	Companies Ordinance – Module D
Marking Scheme	- Court can cancel = 1 mark - Condition 1 = 1 mark - Condition 2 = 1 mark

c)

CAT Limited's shareholders may have following type of various rights and privileges for class "B" shares under Companies Share Capital (Variation in Rights and Privileges) Rules, 2000

- Different voting rights
 - Voting right disproportionate to the paid up value of shares
 - Voting right for specific purpose
 - No voting right
- Different right of entitlement of:
 - Dividend
 - Right shares
 - Bonus shares
 - Receiving of notices of meeting and to attend those meetings
- Right & Privileges for period:
 - Indefinite period
 - Definite period
 - Period determined by members from time to time in special resolution

Topic	Variation in Shareholder Rights Rules
Broad Area of ICAP Syllabus	Rules
Marking Scheme	2 Marks each for above 3 categories = Total Marks 6

Q8:

a)

(i) The following additional information is required to be disclosed in the directors report of a listed company under the provisions of the Companies Ordinance, 1984:

- (i) Material changes that have occurred during the financial year concerning the nature of the business of the company or of its subsidiaries in the classes of business in which the company has interest whether as a member of another company or otherwise unless the commission exempts any company from making such disclosure on the ground that such disclosures would be prejudicial to the business of the company.
- (ii) Material changes and commitments affecting the financial position of the company occurred after close of the financial year and before preparation of the report.
- (iii) Information and explanation in regard to any reservation, observation, qualification or adverse remarks, contained in the auditor's report.
- (iv) Pattern of shares holdings.
- (v) In case of subsidiary company, the name of its holding company, and country of incorporation, if it is established outside Pakistan.
- (vi) Earnings per share.
- (vii) Reasons for incurring loss and a reasonable indication of future prospects of profit, if any.
- (viii) Information about defaults in payment of debts, if any, and reasons thereof.

Topic	Code of Corporate Governance
Broad Area of ICAP Syllabus	Other Laws
Marking Scheme	1 Mark each for 1 valid point [Total = 8]

(ii)

Every listed company shall:

- (i) Within one month of the close of the first, second and third quarter of its year of account, prepare and transmit to the members and the stock exchange in which the shares of the company are listed a profit and loss account for, and balance sheet as at the end of, that quarter, whether audited or otherwise; and
- (ii) Simultaneously with the transmission of the quarterly profit and loss account and balance-sheet to the members and the stock exchange, file with the registrar and the commission such number of copies thereof, not being less than three, as may be prescribed.
- (iii) The balance sheet and profit and loss account or income and expenditure account shall be approved by the directors and shall be signed by the chief executive and at least one director
- (iv) A listed company may place its quarterly accounts on its website which will be treated compliance of the provisions of the Companies Ordinance, 1984.

Topic	Code of Corporate Governance
Broad Area of ICAP Syllabus	Other Laws
Marking Scheme	1 Mark each for 1 valid point [Total = 4]

b)

- At least 3 members comprising majority of non-executive directors, including preferably an independent director.
- CEO may be included as a member of committee but not as chairman of committee.
- CEO if member of HR&R Committee shall not participate in the proceedings of committee on matters that directly relate to his performance and compensation.

Topic	Code of Corporate Governance
Broad Area of ICAP Syllabus	Other Laws
Marking Scheme	1 Mark each for each condition (3 x 1 = 3 Marks)

Q9:

a)

Requirements of the Companies Ordinance 1984

- Produce for inspection & examination of registrar contract in writing constituting title of Violet Engineering (Pvt.) Limited to the allotment along with contract of sale of machinery.
- Contract shall be duly stamped
- File with registrar copies verified in prescribed manner of all such contracts
- Where contract not reduced to writing, Co shall, within 30 days after allotment, file with registrar prescribed particulars of contract stamped with same stamp duty as would have been payable if the contract had been reduced to writing.
- File a Return stating number and nominal amount of shares so allotted, amount to be treated as paid-up, and consideration for which they have been allotted

Requirements of the Issue of Capital Rules 1996

- Value of machinery shall be determined by consulting valuer registered with Pakistan Engineering Council and is on the penal of at least two financial institutions as valuer.
- Value must be net of depreciation.
- Goodwill and intangible assets shall be excluded from the consideration.
- A certificate from a practicing CA shall be obtained for compliance of above conditions.

Topic	Allotment (sec 73) & Issue of shares other than cash (Rules)
Broad Area of ICAP Syllabus	Companies Ordinance 1984 – Module D & Issue of Capital Rules 1996
Marking Scheme	3 Mark each for both heading and sub points (3 x 2 = 6 Marks)

b)

- Shares cannot be issued on discount within 1 year of commencement of business
- Issue of share at discount must be authorised by **resolution** passed in general meeting of Donkey Oils Limited (Resolution must specify maximum rate of discount)
- After passing resolution, Co may apply to SECP for an order **sanctioning** the issue
 - SECP may make an order sanctioning issue on such terms & conditions as think fit.
 - Shares to be issued within 60 days after sanctioning by SECP or within such extended time as SECP may allow
- Issue of shares at a discount shall not be deemed to be reduction of capital.
- Every prospectus and every balance-sheet issued by Co subsequent to issue of shares shall contain particulars of discount allowed.

Topic	Issue of Shares at Discount – sec 84
Broad Area of ICAP Syllabus	Companies Ordinance 1984 – Module D
Marking Scheme	1 Mark Each for a valid point (5 x 1 = 5 Marks)

Q10:

As per the requirements of the Companies Ordinance 1984, a person who is holder of 10% or more voting securities of a listed company is required to submit statement of beneficial ownership to the registrar and SECP

- Within 30 days of occupying position, acquisition or listing
- Within 15 days of change of interest.

<u>Date</u>	<u>Cumulative holding</u>	<u>Deadline for submitting statements</u>
July 10, 2007	9%	Not required to submit the statement
February 15, 2008	13% (Crossed 10%)	Feb 15, 2008 + 30 days = March 16, 2008
March 7, 2008	16% (Change of interest)	March 7, 2008 + 15 days = March 22, 2008

Topic	Directors – sec 222
Broad Area of ICAP Syllabus	Companies Ordinance 1984 – Module D
Marking Scheme	2 Marks for identifying the conditions 2 marks for calculating the relevant dates (2 + 2 = 4 Marks)

Q11:Responsibility of casual vacancy & its tenure

Directors are responsible for filling the casual vacancy in the office of directors

Casual vacancy shall be appointed for the remaining term of office of Mr Whale. (i.e. April 2011)

Removal of Directors

Directors can be removed by passing a resolution for removal of directors.

(i) Mr. Ant (Causal Vacancy)

As per the requirements of the Companies Ordinance 1984, a casual vacancy director cannot be removed if votes casted in his favor exceeds the number of votes arrived at by dividing the total number of votes that were available during preceding election by total number of the directors for the time being

Hence Mr Ant would not be removed if votes casted in his favor are 300,000 ($2,400,000/8$)

(ii) Mr. Elephant (Elected Director)

As per the requirements of the Companies Ordinance 1984, an elected director cannot be removed if votes cast in his favor exceeds the minimum number of votes cast at immediately preceding election

Hence Mr Ant would not be removed if votes casted in his favor are 187,500 (Working 1)

Working 1:

Total Votes casted = 2,400,000

Votes casted to

Mr. Whale,	600,000
Mr. Elephant,	350,000
Mr. Chicken	480,000
Mr. Beef.	220,000

Remaining Votes 750,000

Vote casted for family directors (Each director) = $750,000/4 = 187,500$

So minimum number of votes casted to any director are 187,500

Topic	Directors – sec 180, 181
Broad Area of ICAP Syllabus	Companies Ordinance 1984 – Module D
Marking Scheme	1 Mark for responsibility of Casual Vacancy 1 Mark for tenure of Casual Vacancy 1 Mark for identifying that a director can be removed by resolution 2 Marks each for 2 directors (1 for rule, 1 for calculation) [(3 x 1) + (2 x 2) = 7 Marks]