

**Mock Exam, Spring–2013  
Company Law (Solution)**

---

**Answer to Q.1 (a)**

**Chief Executive**

means

- 1) an individual, who subject to the control and directions of the directors,
- 2) is entrusted with the whole, or substantially the whole, of the powers of management of the affairs of the company, and
- 3) includes a director or any other person occupying the position of a chief executive, by whatever name called, and
- 4) whether under a contract of service or otherwise; **(1 mark each point)**

**Director**

"director" includes any person occupying the position of a director, by whatever name called:

**Prospectus**

"Prospectus" means

- 1) any document described or issued as prospectus, and includes any notice, circular, advertisement, or other communication, inviting offers from the public
- 2) for the subscription or purchase of any shares in, or debentures of, a body corporate, or inviting deposits from the public,
- 3) other than deposits invited by a banking company or a financial institution approved by the Federal Government, whether described as prospectus or otherwise;

**(1 mark each point)**

**Public Company**

"Public company" means a company which is not a private company and a private company is a company which by its articles of association **0.5**

- a. restricts the right to transfer its shares, if any; **0.5**
- b. limits the number of its members to fifty not including persons who are in the employment of the company; and **01**
- c. prohibits any invitation to the public to subscribe for the shares, if any, or debentures of the company **01**

**Answer to Q.1 (b)**

Where a central depository holds more than fifty percent of the voting securities of a company, such company shall not be deemed to be a subsidiary of the central depository save where such voting securities are held beneficially by the central depository in its own behalf, hence a central depository may be a holding company if it possess the shares of that company in its own name. **02**

**Answer to Q.1 (c)**

The Commission shall exercise and perform such powers and functions as are conferred on it by or under this Ordinance or any other law **02**

further the Federal Government may, by notification in the official Gazette, direct that all or any of the powers and functions conferred on the Federal Government, be exercised or performed by the Commission **01**

**Answer to Q.1 (d)**

- i. Under the Ordinance, only members are entitled to request a copy of the Memorandum and articles from the company.
- ii. Under the Ordinance, only members are entitled to request a copy of the special resolution from the company.
- iii. Under the Ordinance, only members are entitled to request a copy of the special resolution from the company.
- iv. Under the Ordinance, members and debenture holders are entitled to request a copy of the trust deed from the company.

*(1 mark for each explanation)*

**Answer to Q.2 (a)**

A condition contained in any debenture or any deed for securing any debentures shall not be invalid by reason only that thereby the debentures are made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period however long.

**Answer to Q.2 (b)**

Every limited company—

- (a) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in English or Urdu characters, and also, if the registered office is situate in a place beyond the local limits of the ordinary original civil jurisdiction of a High Court, in the characters of one of the vernacular languages used in that place **02**
- b) shall have its name engraved in legible English or Urdu characters on its seal; **01**
- (c) shall have its name mentioned in legible English or Urdu characters, on all documents purporting to be the documents of the company. **01**

**Answer to Q.3**

- i. The statement is not in accordance with the Companies Ordinance 1984, In addition to the powers for filing a suite for redemption monies, the trustee may if so empowered under the trust deed, acquire the security and may sell or concur in selling that property without referring to the court. Such powers must have been written in the trust deed. **02**
- ii. The statement is not true in accordance with the Companies Ordinance 1984 as it is the responsibility of the company to get the charge registered within 21 days of its creation however it is the right of any interested person to get the charge registered with the registrar within this time. **02**
- iii. There is no restriction for minimum number of days for which the register may remain closed, however the Ordinance limits the maximum number of days for which the register may remain closed. In a year the register may remain closed for not more than 45 days and not more than 30 days in one go. **03**  
Such closure of register may be made by giving a seven days prior notice. **01**

- iv. The statement is not in accordance with the Companies Ordinance 1984, as Company shall file annual list of members within
  - (i) 45 days from the date of Annual General Meeting in case of Listed company
  - (ii) 30 days from the date of Annual general Meeting in case of other company **(01)**

In case where the annual general meeting is not held or, is held but is not concluded, the particulars of the members and of debenture-holders as on the last date of calendar year shall be filed within

- (iii) 45 days from the date of end of calendar year in case of Listed company
- (iv) 30 days from the date of end of calendar year in case of other company **(02)**

In case of listed companies, the extension of 15 days may be granted by the Registrar if any special cause is shown. **(03)**

- v Statement is not true as the statutory report is required to be signed by atleast three directors one of which shall be the chief executive. **(02)**
- vi. The statement is not true as the directors report is signed by chairman and in his absence by chief executive and if the chief executive is not authorized in this behalf then by the chief executive and such number of directors as are required to sign the balance sheet of the company. **(02)**
- vii This statement is true to the extent that members are at liberty to discuss any matter pertaining to the company however the resolution can be passed only for the matters for which notice was duly given as per the articles of association of the company. **(02)**
- viii in such a case the requisitionists are required to have an eye on whether or not the director proceed to call a meeting within 21 days of the filing of the requisition and if not called by directors the requisitionists themselves should call a meeting. So the statement is partially in accordance with the Ordinance. **(03)**
- ix. It is not mandatory to write the names of the first directors in articles of association however the company may write the names of the first directors in articles of association. If not so written in the articles, all the subscribers to the memorandum shall be considered as director until they appoint the directors formally. **(03)**
- x. Retiring chief executive shall continue to perform his services until his successor is appointed but in the following circumstances he shall not so hold the office
  - His office was expressly terminated
  - He is the cause of non-appointment of new chief executive. **(03)**

**Answer to Q.4 (a)**

Any item of discussion between the members and for passing of a resolution during a meeting which is other than the following

- i) Consideration of financial statements and auditor's and directors' report thereon
- ii) Appointment of auditors and fixation of their remuneration
- iii) Approval of dividends
- iv) Election of directors. **(04)**

**Answer to Q.4 (b)**

1. The instrument appointing a proxy shall-
  - (a) be in writing; and be on a form prescribed for this purpose and
  - (b) be signed by the appointer or his attorney duly authorised in writing, or if the appointer is a body corporate, be under its seal or be signed by an officer or an attorney duly authorised by it.
2. The proxies shall be lodged with the company not later than forty-eight hours before the time of the meeting and any provision to the contrary in the company's articles shall be void.
3. Only one proxy shall be lodged for any one meeting and if more than one proxies are filed all of them shall stand void.

**(2 marks for each point)**

**Answer to Q.4 (c)**

whenever the Commission exercises its powers regarding the calling of a meeting on default of directors, it may add to the instructions of calling a meeting an instruction that any one person present to attend the meeting shall be considered as quorum of the meeting. **(02)**

Secondly whenever a meeting is adjourned for want of quorum, the meeting shall be held in next week on same day and same time and place. In such an adjourned meeting any two members present shall constitute quorum unless articles provide otherwise. **(03)**

**Answer to Q.5 (a)**

Mr. Hameed may give a general notice regarding his directorship other body corporate or membership in firms so that he may be considered as interested in any transaction/contract or arrangement entered into these companies.

Such notice should be given at the directors' meeting or the concerned director may take reasonable steps to ensure that the notice is read by the other directors.

This general notice shall expire at the end of the financial year in which it is given and may be replaced by fresh notice to be given in last month of financial year. **(04)**

**Answer to Q.5 (b)**

Final dividend is approved in annual general meeting while interim dividend is declared and approved by directors in board meeting.

The chief executive of the company shall be liable to fine and imprisonment in case of non-payment of dividend within the prescribed time and he shall be further become in-eligible for appointment as a director or chief executive of any company. **(03)**

**Answer to Q.5 (c)**

Following particulars of each contract, appointment or arrangement in which directors etc are interested shall be kept in a register.

1. date of arrangement, appointment or contract.
2. Name of the parties

3. Principal terms and conditions
4. date on which it was placed before the directors.
5. Names of the directors voting for against and remaining neutral.  
Name of the interested director. **(1 mark for each point)**
- 6.

**Answer to Q.5 (d) (04)**

This register shall be open to inspection in following manner

- i. it shall be opened 14 days before the annual general meeting
- ii. it shall be closed after three days of the AGM
- iii. during these days the register shall be open to inspection to any member subject to such reasonable restrictions as the company may in general meeting or its articles apply that the register shall be open to inspection for not less than two hours daily.
- iv. However it shall be open to inspection to any person appointed by Commission during whole of the year.

If the inspection is refused, the company and defaulting officers shall be liable to fine and the registrar may compel the immediate inspection of the register to any named person.

**Answer to Q.6 (a) (04)**

1. Following persons in a listed company
  - Chief Executive
  - Managing Agent
  - Director
  - Chief Accountant
  - Company Secretary
  - Auditor
  - Any person holding directly or indirectly 10% or more shares of the company

If make any gain from a transaction in the shares of the company entered such that the cycle of purchase and sale or sale and purchase in completed within a period of sixmonths, shall tender the gain to the company and make out a report of the gain toCommission and registrar.

2. If such gain is not tendered to the company within six months of accrual or within sixty days of demand by the company, such gain shall vest with the Commissionwho may recover it as arrears of land revenue

**Answer to Q.6 (b) (04)**

yes the company can enter into a contract through an agent and that agent may keep the name of the company undisclosed however such person shall immediately after entering into the contract make a memorandum of the terms of the contract and send a copy to the company and a copy to each of the directors, if such person ignores this provisions and does not prepare and send the memorandum of contract, the contract shall be void at the option of the company.

**Answer to Q.6 (c) (03)**

All moneys or securities deposited with a company by its employees in pursuance of their contracts of service with the company shall be kept or deposited by the company within fifteen days from the date of deposit in a special account to be opened by the company for the purpose in a scheduled bank or in the National Saving Schemes, and no portion thereof shall be utilized by

the company except for the breach of the contract of service on the part of the employee as provided in the contract and after notice to the employee concerned.

**Answer to Q.7**

**(05)**

None of the following persons shall be appointed as auditor of a company, namely:—

- (a) a person who is, or at any time during the preceding three years was, a director, other officer or employee of the company;
- (b) a person who is a partner of , or in the employment of, a director, officer or employee of the company;
- (c) the spouse of a director of the company;
- (d) a person who is indebted to the company; 1[...]
- (e) a body corporate;
- [(f) a person or his spouse or minor children, or in case of a firm, all partners of such firm who holds any shares of an audit client or any of its associated companies:

Provided that if such a person holds shares prior to his appointment as auditor, whether as an individual or a partner in a firm the fact shall be disclosed on his appointment as auditor and such person shall disinvest such shares within ninety days of such appointment.]

**(The End)**