

SOLUTION 1

- (a) Section 5 – where a contract confers a benefit on a person who is not a party to the contract that party can enforce or rely on the contract as though he were a party.
- (b) Section 6 – no variation can be made to the terms of the contract if that beneficiary has acted on the contract to his prejudice unless he consents to the variation.
- (c) Section 8 – a promise to keep an offer open for acceptance for a specified time is valid notwithstanding the absence of consideration.
- (d) A promise to waive the payment of a debt or part of a debt or the performance of some other contractual or legal obligation is not invalid only by reason of the absence of consideration.
- (e) Section 9 – The performance of an act or the promise to perform an act may be sufficient consideration for another promise notwithstanding that the performance of that act may already be enjoined by some legal duty whether enforceable by the other party or not.
- (f) Section 10 – no promise shall be invalid as a contract by reason only that the consideration therefore is supplied by someone other than the promisee.

SOLUTION 2

- (a) Where goods are sold by sample the goods shall correspond exactly to the sample.
- (b) Where goods are sold by description the goods shall correspond exactly to the description.
- (c) There is an implied condition that goods are free from defects which are not declared or known to the buyer before or at the time when the contract is made provided that
 - i. where the buyer has examined the goods and the defects would have been revealed by the examination
 - ii. in the case of sale by sample the defect could have been revealed by a reasonable examination of the sample
 - iii. the goods are not sold by the seller in the ordinary course of his business in respect of defects of which the seller was not and could not have been aware there is no such implied condition.

- (d) Where the goods are of a description which is supplied by the seller in the course of his business and the buyer expressly or by implication makes known the purpose for which the goods are, required there is an implied condition that the goods are reasonably fit for that purpose.

SOLUTION 3

- (a) A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person or to bearer.
- (b) Main Areas of Negligence
- (i) failure to obtain references or follow them up on opening of an account
 - (ii) failure to obtain the name of the customer's employer (in the case of an employee though the bank) need not update this information.
 - (iii) failure to obtain the name of the husband's employer when an account is opened for a married woman.
 - (iv) collecting for the private account of a partner or a director cheques payable to the firm or to the company.
 - (v) collecting for an employee cheques payable to his employer or drawn to his employer.
 - (vi) collecting for the private account of an agent cheques which he received only as an agent.
 - (vii) collecting cheques payable to a limited liability company to an account other than that of the company.
 - (viii) Collecting Account Payee cheques for someone other than the payee.

SOLUTION 4

- a. Ordinary shareholders are members of the company.
- b. They vote at company meetings in accordance with their shareholdings

- c. They share in the profits of the company when dividends are declared and this may vary according to the company's profitability.
- d. In the event of liquidation they are the last to be paid.
- e. Preference shareholders though members of the company do not have any vote. Their dividend is based on a percentage of the profit when declared.
- f. They are paid first before the ordinary shareholders.
- g. Where huge profits are declared for a particular year whilst the ordinary shareholder has the chance of gaining higher dividend the preference share holder's dividend remains the same.
- h. Debenture holders are creditors of the company and play no part in the company.
- i. The Debenture holder may have a floating charge on the assets of the company or changed to a particular asset where it is a floating charge in the event of liquidation the debenture holder joins other creditors in the distribution of the assets but where it is a fixed asset then that particular asset is sold and the money realised is paid to the debenture holder

SOLUTION 5

- (a) The name of the company.
- (b) Its authorized business or the nature of its objects.
- (c) Names and any former names, addresses and business occupations of its directors and secretary and particulars of other directorships held by them.
- (d) The name and address of its auditor.
- (e) The addresses of its registered office and principal place of business in Ghana and the registered postal address.
- (f) If its register of members is kept and maintained elsewhere then at the registered office, the address at which it is kept.
- (g) If the company has shares,
 - i. the amount of its stated capital
 - ii. the number of its authorized shares of each class
 - iv. the number its issued shares of each class and the amount paid thereon

- v. The amount paid in cash and the amount paid other than cash
 - vi. The amount remaining payable to those due and those not yet due.
- (h) The return should also declare that the provisions of section 28 with regard to payment of shares have been complied with.

SOLUTION 6

- (a) That the company's regulations have been complied with.
- (b) That every person described in the particulars filed pursuant to sections 27 and 197 as Managing Director, Director or Secretary or appointed as such, in a general meeting has been duly appointed and has authority to exercise, the powers and perform the duties customarily associated with such position.
- (c) That the secretary of the company and every other officer or agent of the company having authority to issue documents or certified copies of documents on behalf of the company has authority to warrant the genuineness of the documents or the accuracy of the copies so issued.
- (d) That a document has been duly sealed by the company if it bears what purports to be the seal of the company attested by what it purports to be the signatures of two persons who can be assumed to be a director and the secretary.
- (e) A person shall not be entitled to make such assumptions if he had actual knowledge to the contrary or having regard to his position or relationship to the company ought to have known the contrary.
- (f) Where any one or more of the directors have been appointed to act as a committee of the board or that any officer or agent of the company has the company's authority by reason only that the company's regulations purports the company to act in the matter may be delegated to a committee or to an officer or agent.

SOLUTION 7

- (1) Every partner is an agent of the firm for the purposes of the business of the firm.
- (2) The acts of every partner shall bind the firm if:

- (i) the acts were authorized, expressly or impliedly, by his other partners or subsequently ratified by them.
 - (ii) such acts were done for carrying on in the usual way business of the land carried on by the firm, unless the partner so acting has in fact no authority to act for the firm in the particular matter and the person with whom he is dealing knows that he has no authority.
- (3) Where the acts of a partner are for a purpose apparently not connected with the firm's ordinary course of business, the firm shall not be bound unless he is in fact authorised by his other partners or his act is subsequently ratified by them.
- (4) If it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement shall be binding on the firm with respect to persons having notice of the agreement.

On the other hand an agreement purporting to limit the extent of the liability of the firm or the partners in respect of any act binding the firm shall not be effective except as between the actual parties to the agreement.

Every partner shall be jointly and severally liable with the firm and other partners for all debts and obligations of the firm incurred while he is a partner.

SOLUTION 8

- (a) The membership of a company is from one up to any number in the case of public companies but up to fifty in the case of private companies whereas the maximum number of persons in a partnership does not exceed twenty with a minimum of two.
- (b) The liability of members of a company is limited to the amount unpaid on their shares whereas in a partnership irrespective of their contributions members are liable for the liabilities of the firm without any limit.
- (c) The death of a partner sometimes affects the running of the firm whereas the death of a shareholder does not affect the running of the company.
- (d) All members of a partnership take part in the running of the firm but management of a company is entrusted to the Managing Director and his management team.
- (e) A company can float shares or issue debentures to raise capital but a partnership cannot do that.
- (f) A company can admit new members any time by floating shares but the admission of a new member into the partnership firm should be agreed by all the members.