



**CERTIFIED PUBLIC ACCOUNTANT
INTERMEDIATE LEVEL EXAMINATIONS**

I1.3: COMPANY LAW

DATE: MAY 2024

MARKING GUIDE AND MODEL ANSWERS

SECTION A

QUESTION ONE

Marking guide

a.i.	1 mark each for any 3 valid responses well elaborated	4
a.ii.	2 marks for the position and 1 mark each for any 3 well explained positions	6
a.iv.	1 mark for the legality of the judgment against Ihame Ltd and 2 marks for any 3 legal ways of communicating by a company	7
b.i.	1 mark for any 3 requirements well stated	3
b.ii.	1 mark for any 5 conditions for reserving or registering a name well listed	5
	Total Marks Awarded	25

Model answers

a.

i. A candidate should demonstrate knowledge and understanding on company's powers and capacity

- The managing Director did not have the power to do business not allowed by the Articles of Association and Memorandum of the Association;
- The memorandum and articles of association have the effect of a contract and are binding as between the company and shareholders and members and between the shareholders or members themselves.
- No, The the General Assembly does not have to invalidate an act of a company and transfer of property to or by the company by reason merely that the company does not have the capacity, the right, or the power to do the act or to transfer or take a transfer of the property

ii. A candidate should demonstrate knowledge and understanding on legality of General Assembly resolutions

- No, the resolution of the General Assembly is not legal;
- The bank should not sue Managing Director because the loan was given Ihame Ltd not the managing Director him/herself and there is no any fraud used to get the loan;

- Article 27 of the Rwandan company law provides that a company or a guarantor of an obligation of a company cannot assert against a person dealing with the company or with a person who has acquired property, rights, or interests from the company that the articles of association of the company have not been complied with.

iii. A candidate should demonstrate knowledge and understanding on procedures of communication of the company

- The judgment on the case without the presence of Ihame ltd before the court is not legal because it was not summoned as provided for by the law which should be in Musanze District as registered office.

Article 31 of the Rwandan company law provides that any communication, notice or legal process or proceedings are served on a company by:

- Personally serving it to a director or to the company's secretary;
- Sending it by registered post to the registered postal address of the company or sending it electronically;
- Leaving it at the registered office of the company;
- By delivery to an employee of the company at the company's head office or principal place of business;
- In accordance with an agreement made with the company;
- By serving it at an address for service given in accordance with the rules of the court having jurisdiction in the proceedings or by such means as a attorney acting for the company has, in accordance with those rules, stated that the attorney will accept service.

b.

i. The candidate should demonstrate knowledge and understanding on the obligation of adding to the registered name the word "Limited" or the abbreviation "Ltd"

The Board of Directors may direct that the entity be registered as a limited company without the addition of the abbreviation "Ltd" to its name when:

- A limited company to be formed has an objective of promoting commerce, art, science, religion, charity or any other useful objective;
- Intends to apply its profits or other income in promoting its objectives;
- And that it does not intend to distribute its dividends to its shareholders;

ii. The candidate should demonstrate knowledge and understanding on the conditions provided by the law, in Rwanda, for a name to be reserved or registered by the Registrar General

The Registrar General does not reserve or register a name:

- Which, or the use of which, would contravene any Law;

- Which may be misleading;
- Which goes against good morals;
- Which is identical or almost identical to a name that the Registrar General has already reserved for another company;
- Which is identical with that of an existing company, or statutory corporation, or so nearly resembles that name as to be likely to mislead, except where the existing company or statutory corporation is in the course of being dissolved and signifies its consent in such a manner as the Registrar General requires.

QUESTION TWO

Marking guide

a.	1 mark for the advice well provided and 1 mark for each for any 6 procedures through which a company can be removed from the register of companies	7
b.	1 mark for the position and 1 mark each for any 2 well explained arguments	3
c.	2 marks for any 5 arguments showing the procedure of amalgamation	10
d.	1 mark for the requirement, 2 marks for any 2 procedures well explained.	5
	Total Marks Awarded	20

Model answers

- a) **The candidate should demonstrate knowledge and understanding on the grounds for removal of a company from the register**

The Registrar General removes a company from the register if:

- The company is an amalgamating company other than an amalgamated company and, on the same day, the Registrar General issues a certificate of amalgamation;

The Registrar General is satisfied that:

- The company has ceased to carry on business and there is no proper reason for the company to continue in existence;
- The company has failed to pay fees due to the Registrar General under this Law;
- The company has not filed its annual return as required under this Law;

The Registrar General receives a request, in a form approved by him or her, from:

- A shareholder authorised to make the request by a special resolution of shareholders entitled to vote and voting on the question;
- The board or any other person, where the incorporation documents of the company so requires or permits, that the company be removed from the register on the grounds

Set out by law.

- There is delivered to the registrar general an application for removal of an insolvent company from register and no liquidator is acting in relation to that company or the liquidator appointed fails to deliver to the registrar general the documents required to be filed under the law relating to insolvency;
- A liquidator delivers to the registrar general the final report and final accounts of the liquidation and the statement required by the law governing insolvency.

- I can advise the company to request the Registrar General by submitting a shareholder's resolution that has approved the removal of a company from the register of companies.
- b) The candidate should demonstrate knowledge and understanding on the procedures for removing a company from the register of companies**
- No, it is not enough that the issue was discussed in General Assembly is the basis for requesting for removal because to request it, it is required to that the Registrar General receives a request, in a form approved by him, from a shareholder authorised to make the request by a special resolution of shareholders entitled to vote and voting on the question.
- a) The candidate should demonstrate knowledge and understanding on the process of amalgamation**
- Amalgamation is when two (2) or more companies may amalgamate, and continue as one company, which may be one of the amalgamating companies, or may be a new company.
 - The parties to an amalgamation cannot implement such amalgamation until it has been approved, with or without conditions, by the authority in charge of competition and consumer protection.
 - A company that proposes to amalgamate authorises:
 - ✓ An amalgamation proposal;
 - ✓ The proposed incorporation documents of the amalgamated company in conformity with Article 201 of this Law;
 - ✓ In the case of a public company with shares or debentures traded on the capital market, the company must comply with all Laws and regulations relating to the capital market.
 - An amalgamation proposal sets out the terms of the amalgamation, and in particular:
 - ✓ The manner in which shares of each amalgamating company are to be converted into shares of the amalgamated company;
 - ✓ If any shares of an amalgamating company are not to be converted into shares of the amalgamated company, the consideration that the holders of those shares are to receive instead of shares of the amalgamated company;
 - ✓ Any payment to be made to any shareholder or director of an amalgamated company, other than a payment of the kind described in item 2o of this Article;
 - ✓ Details of any arrangements necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated company.
 - An amalgamation proposal specifies the date on which the amalgamation is intended to become effective.
 - If shares of one of the amalgamating companies are held by or on behalf of another of the amalgamating companies, the amalgamation proposal provides for the cancellation of those shares when the amalgamation becomes effective without any payment in respect of those shares, and no provision may be made in the proposal for the conversion of such shares into shares of the amalgamated company.
 - The incorporation documents for authorization of an amalgamation are in the prescribed form and in particular state:
 - ✓ The name of the amalgamated company;
 - ✓ The share structure of the amalgamated company, specifying:

- The number of shares of the amalgamated company and the rights, privileges, limitations and conditions attached to each such share, and its transferability, if different from provisions of Article 193 of this Law;
 - The full names, postal and residential addresses of the directors of the amalgamated company;
 - In the case of a public company, or a private company with a secretary, the full name, postal or residential address of the secretary of the amalgamated company;
 - ✓ The registered office of the amalgamated company;
 - ✓ The place where the amalgamated company's records are to be kept, if not the registered office;
 - ✓ The amalgamated company's accounting reference date.
 - Directors each amalgamating company resolves that in its opinion the:
 - ✓ Amalgamation is in the best interests of the shareholders of the company;
 - ✓ The amalgamated company will satisfy the solvency test immediately after the time at which the amalgamation is to become effective.
 - Directors of each amalgamating company send to each shareholder of that company not less than twenty (20) working days before the amalgamation is to take effect:
 - ✓ A copy of the amalgamation proposal;
 - ✓ A copy of the proposed incorporation documents;
 - ✓ Copies of the certificates given to each set of directors in favour of amalgamation;
 - ✓ A statement of any material interests of the directors, whether in that capacity or otherwise;
 - ✓ Such other additional information and explanation as may be necessary to enable a shareholder to understand the nature and implications for the company and its shareholders of the proposed amalgamation.
 - The amalgamation is authorized by the shareholders of each amalgamating company by special
- b) The candidate should demonstrate knowledge and understanding on creditors' rights in case of amalgamation**
- Where immediately after the time when an amalgamation becomes effective, an amalgamated company does not satisfy the solvency test, any creditor of any of the amalgamating companies may recover any loss he or she has suffered by reason of the amalgamation:
 - If no certificate approving the amalgamation was given by directors of that amalgamated company, from the directors of the amalgamating company at the time the amalgamation was approved;
 - Even if the certificate was given by the directors who signed it, there were no reasonable grounds for the opinion that the amalgamated company would not satisfy the solvency test.

QUESTION THREE

Marking guide

(a)

i	1 mark for the response whether this is a contract and 1 mark each for any 3 justifications	4
ii	2 marks each for any 3 elements well explained	6
b. i	1 mark each for the 3 companies identified	2
ii	1 mark for well explained company limited by shares and 1 mark for company limited by shares	2
iii	3 marks for contents of memorandum of association and 3 marks for articles of association	6
	Total Marks Awarded	

Model answers

(i) The candidates should demonstrate knowledge and understanding on the basic elements of a contract necessary for the formation of a contract.

- It is not a contract.
- There is no mutual consent since Monica Uwimana and David Mpenzi did not consent.
- Capacity of the parties is an important consideration for the formation of the contract and thus David Mpenzi and Uwimbabazi Grace do not have capacity to enter into a contract.
- The object or the purpose of the contract going by the suggestion shall be opposed to law and hence a contract with an illicit object is void.

(ii) The candidates should demonstrate knowledge and understanding on the basic elements of a contract without which a company cannot be formed.

- As with regard to company contract, the shareholders agree to put in together the values, goods or knowhow in order to share the profits.
- The content of this agreement governs the functioning of the company.
- There is no company contract unless there is a combination of the following elements:
 - ✓ The shares from one or several shareholders;
 - ✓ The vocation of all to the profits;
 - ✓ The affectio societatis.

b.i The candidates should demonstrate knowledge and understanding on the types of companies

- According to the categories of companies set forth in the Law governing companies, companies are grouped into the following types:
 - ✓ A company limited by shares;

- ✓ A company limited by guarantee;
- ✓ A company limited by shares and by guarantee;
- ✓ An unlimited company.
- A company limited by shares and by guarantee may be public or private.
- However, a company limited by guarantee or an unlimited company cannot be a public company.

ii The candidates should demonstrate knowledge and understanding on the memorandum and articles of association

The memorandum of association of any company shall state the following:

- ✓ **The name clause.** This clause states the company's proposed name.
 - It must end in the word "PLC" if it's a public company or "limited "or Ltd if it's a private company.
 - It can't be identical to any existing company's name.
 - It can't allude to the new company doing the business of an existing company.
 - It should not be misleading in any way.
- ✓ **The registered office clause.** The registered office clause lists the name of the state where the company's registered office is physically located.
 - The registered office's physical location determines which jurisdiction the Registrar of Companies and which court the company would fall under.
 - It also confirms the company's nationality.
 - The registered office's full address must be provided to the Registrar of Companies to simplify further communications.

The object clause. The object clause explained why the company is establishing. Companies aren't legally allowed to do any kind of business other than the kind of business that is specifically stated in this clause. An object clause should contain:

- A list of the main objects the company will be pursuing after it's incorporated
- Incidental objects that are necessary to achieve the main object.
- Any other objects that aren't included in the main objects or incidental object.
- Nothing illegal.
- Nothing that's against the public interest.
- Nothing that's against the country's general rule of law.
- ✓ **The capital clause.** The capital clause lists information about the total capital held by the proposed company.
 - This amount is called the company's authorized capital.
 - Companies aren't permitted to collect more money than the amount listed under authorized capital.

- The way the capital is divided into equity share capital and preference share capital also needs to be listed in the capital clause.
- The number of shares the company puts in equity share capital and preference share capital, alongside their value, needs to be included in the MOA.
- ✓ **Liability clause.** The liability clause explains what liability each of the company's members faces.
 - If the company is limited by shares, the liability that each member faces can be no more than the face value of shares that he or she holds.
 - If it's a company that's limited by guarantee, this clause must define how much liability each individual company member holds.
 - If it's an unlimited company, this particular clause would not be included in the MOA.
- ✓ **Association clause.** The association clause explains that any individual signing the bottom of the MOA wants to be part of the association that's being formed by the memorandum.
 - The MOA has to be signed by at least seven people or more if it's a public company.
 - It has to be signed by at least two or more people if it's a private company.
 - The signatures also have to be affirmed by witnesses.
 - There can be one witness for all of the signatures, but none of the subscribers can witness the signatures of the others.
 - All subscribers and witnesses must provide their addresses and occupations in writing

The articles of association can have the following contents

- Interpretation.
- Share Capital and Variation of Rights.
- Preference Shares.
- Alteration to Memorandum.
- Control of Shares.
- Shares held Jointly.
- Increase of Capital.

iii The candidates should demonstrate knowledge and understanding on companies limited by both shares and guarantee

- Limited by shares companies are owned by shareholders (members) and incorporated with share capital.
- This means that the company is divided into shares, each of which is assigned a nominal value (FRW 100).
- Every member must agree to take at least one of these issued shares.

- Limited by shares companies must be set up with a minimum of one shareholder and one share. At least one director must also be appointed to manage the company. Generally, there is no limit to the number of shareholders, shares, and directors a company can have.
- With companies limited by shares, there is a share capital (the value of the company), and those shares are held by the members.
- With companies limited by guarantee, members do not hold shares in the company and subsequently the company has no share capital.
- A company limited by guarantee is a company without shareholders or shares.
- Typically used by non-profits and charities, this type of company is controlled by guarantors (members), who guarantee a nominal sum of money to the company in the event of it becoming insolvent or winding up.

QUESTION FOUR

a.i	1 mark for affirmation and 1 mark each for any 3 circumstances well explained	4
ii	1 mark each for any 2 legal positions well explained	2
iii	1 mark each for any 4 grounds well explained	4
b.i	1 mark each for any 4 well explained legal positions	4
ii	1 mark each for any 4 well explained legal positions	4
iii	1 mark each for any 2 well explained positions on variation of shareholders rights	2
	Total Marks Awarded	20

Model answers

(i) The candidate should demonstrate knowledge and understanding on the grounds upon which a company may or may not be removed from the register of companies

- If the company cannot stand the solvency test it can be dissolved and eventually removed from the register of companies but if it stands the court will order it to pay the outstanding debts within 30 days.
- Article 321: Companies incorporated or registered in Rwanda that cannot transfer incorporation
A company incorporated or registered in Rwanda cannot be removed from the register of companies where:
 - The company is in liquidation or an application has been made to the Court to put the company into liquidation;
 - A receiver, manager or administrator has been appointed, whether by a Court or not, in relation to the property of the company;
 - The company has entered into a compromise with creditors or a class of creditors or a compromise has been proposed in relation to the company;
 - A compromise has been approved by the Court in relation to the company or an application has been made to the Court to approve a compromise;
 - If it does not satisfy the solvency test.

(ii) The candidate should demonstrate knowledge and understanding of companies classified as unable to pay debts.

A company shall be considered to be unable to pay its debts where:

- A creditor to whom the company is indebted in a sum exceeding twenty thousand Rwanda francs (20,000 FRW), has served at the registered office a demand under his/her hand or under the hand of his/her Lawfully authorized agent requiring the company to pay the sum due, and the company has for three weeks thereafter neglected to pay the sum or to secure it to the reasonable satisfaction of the creditor;
- Execution or other process issued on a judgment or order of any Court in favor of a creditor of the company is returned unsatisfied;

It is proved to the satisfaction of the Court that the company is unable to pay its debts, having regard to its existing, contingent and prospective liabilities.

(iii) The candidate should demonstrate knowledge of company law on the grounds that may be brought forth to the attention of the Registrar General of companies objecting the removal of a company from the register of companies.

Article 283: Grounds for objecting to removal of a company from the register of companies

- The company is still carrying on business;
- The company is a party to legal proceedings;
- The company is in receivership, liquidation or both;
- That the person is a creditor, a shareholder or any other person who has an undischarged claim against the company;
- That the person believes that he or she has a right of action to pursue under provisions law;
- That for any other reason it would not be just and equitable to remove the company from the register

biThe candidate should demonstrate knowledge and understanding on the powers of the company to alter the incorporation documents.

• Article 192: Power to alter incorporation documents

- When a company alters its incorporation documents, the directors, within ten (10) working days of the alteration, deliver to the Registrar General:
- A completed notice of alteration of incorporation documents in the prescribed form;
- Completed consent in the prescribed form signed by any person named in the notice as a new director or secretary.

In the case of an allotment of shares, the notice must specify:

- The number of shares allotted;
- The rights, privileges, limitations and conditions attached to each allotted share or class, and its transferability, if different to Article 85 on the fundamental rights attached to the share of the Law.
- In the case of a cancellation of shares, the notice specifies for shares of each class the number cancelled and the date of cancellation.

- In the case of an alteration of the company's name, the Registrar General issues an amended certificate of incorporation.
- Where the shareholders of a company are unable to alter the articles of association in the manner provided by the articles of association or this Law, a competent court may upon the application of the shareholders or directors make an order altering the articles of association on terms and conditions as it deems fit.
- The applicant for such an order delivers a copy of the order together with the altered articles to the Registrar General in fifteen (15) working days

ii The candidate should demonstrate knowledge and understanding on the importance of the notice of alteration of incorporation documents.

• Article 193: Notice of alteration of incorporation documents

- Subject to the provisions of Paragraph 4 of this Article, when a company alters its incorporation documents, the directors, within ten (10) working days of the alteration deliver to the Registrar General:
- A completed notice of alteration of incorporation documents in the prescribed form;
- Completed consent in the prescribed form signed by any person named in the notice as a new director or secretary.

In the case of an allotment of shares, the notice specifies:

- the number of shares allotted;
- the rights, privileges, limitations and conditions attached to each allotted share or class, and its transferability, if different to Article 85 of this Law.
- In the case of a cancellation of shares, the notice specifies for shares of each class the number cancelled and the date of cancellation.
- In the case of an alteration of the company's name, the Registrar General issues an amended certificate of incorporation

iii The candidate should demonstrate knowledge and understanding on variation of Article 87: Variation of rights

- Where the share capital of a company is divided into different classes of shares, a company does not take any action which varies the rights attached to a class of shares unless that variation is approved by a special resolution of shareholders having such a class of shares.
- Where the variation of rights attached to a class of shares is approved and the company becomes entitled to take the action concerned, the holder of a share of that class, who did not consent to or cast any vote in favour of the resolution for the variation, may apply to a competent Court for an order against acts that are prejudicial to a shareholder, or he or she may require the company to purchase those shares.
- shareholders' rights on subdivision of shares into different types.

SECTION B

QUESTION FIVE

Marking guide

a.	1 mark for liability any 1 mark each for any 2 justifications	3
b.	1 mark for any 3 capacities well elaborated	3
c.	1 mark for any 4 valid legal positions well explained	4
d.	1 mark each for any 4 legal implications well elaborated	4
	1 mark for affirmation, 1 mark for meaning and 1 mark each for any 2 justifications	4
	1 mark for affirmation and 1 mark for any 3 justifications	4
	1 mark for affirmation and 1 mark for any 3 justifications	4
	1 mark each for the 2 companies and 1 mark each for 2 liabilities	4
	2 marks each for any 2 distinctive liabilities well elaborated	4
Total Marks Awarded		20

Model answers

(i) The candidate should demonstrate knowledge understanding on the powers of the company through the directors.

- The directors of the company shall be made liable for the loan borrowed from the bank
- The article required them to seek first the resolution to borrow from the members before borrowing which they did not do.
- Further the investment upon which the money was invested was never part of the company objects in the memorandum of association

(ii) The candidate should demonstrate knowledge and understanding on the powers of directors in the management of the company.

- **Article 144: Management of a company**
- The business and affairs of a company are managed by or under the direction of the Board of Directors of the company which has all powers necessary for the management except where the company's incorporation documents or this Law expressly reserve those powers to the shareholders or any other person.

- Where a private company has one Director, he or she exercises the powers and carries out the duties of a Board of Directors provided for in this Law.

(iii) The candidate should demonstrate knowledge understanding on the validity of incorporation documents.

- **Article 27: Validity of incorporation documents and of a company's acts**

- The memorandum and articles of association have the effect of a contract and are binding as between the company and shareholders and members and between the shareholders or members themselves.
- An act of a company and transfer of property to or by the company is not invalid by reason merely that the company does not have the capacity, the right, or the power to do the act or to transfer or take a transfer of the property.

(iv) The candidate should demonstrate knowledge and understanding on the implication of registered office and registered address.

- **Article 30: Registered office and registered address**

- A company must at all times have a registered office in Rwanda.
- All communications, notices and service of legal proceedings on the company may be addressed to a company's registered office.
- Subject to any restrictions in the company's incorporation documents, the Board of Directors may change its registered office and registered address from time to time in accordance with provisions of this law.
- The change of the registered office takes effect on a date stated in the notice but it cannot be earlier than five (5) working days after the notice is registered by the Registrar General.

(v) The candidate should demonstrate knowledge and understanding on ultra vires acts of the company and directors.

- Yes, the acts of the directors are ultra vires (beyond power)
- They lacked the power by not having the shareholders as provided for in the articles of association
- They equally act outside their powers since they did not have power to engage in a business outside the company objectives as provided for in the memorandum of association

(i) The candidate should demonstrate knowledge and understanding on redemption of shares by a company and conversion of a company from one type to another.

- Munyaneza Elie's liability is equal to zero by the fact that all the ten thousand shares held by him has been fully paid
- The scenario above is about the conversion of a company limited by shares to a company limited by guarantee.
- All other members are required to clear the outstanding 25% of the shares held by them that being their liability
- Once all shares have been paid for in complete the shares shall be deemed cancelled and the capital of the company cannot be denoted by shares

- Notice shall be sent to the Registrar General of companies to the effect that the company has been converted to a company limited by guarantee and such guaranteed shall be made manifest

(ii) The candidate should demonstrate knowledge and understanding of company limited by shares and company limited by guarantee.

- The company to which the shareholders/members had invested in is a company limited by shares

- Given that each share costed Fifty thousand Rwandan francs each and members were instructed to be for their shares to 50% it will therefore imply that their liability to the company is the difference of unpaid shares which is equal to 50%

- The company which will emerge after the redemption of the shares is a company who liability will be based on guarantee and thus a company who members' liability will be guaranteed in a manner that the company will decide upon

- The other members who had only paid half of the share price shall be required to pay the outstanding balance of 50% that being their liability

- Once all payments have been made the shares shall be deemed cancelled.

(iii) The candidate should demonstrate knowledge and understanding of liability limited by shares and liability limited by guarantee.

- Assuming that the shares have not been redeemed the company will remain to be a company that is limited by shares.

- On the contrary in order to ensure that in case of any eventuality the company may not collapse the members in a meeting may decide in addition to the share liability they give a guarantee each based on his investment.

- In that, therefore the liability of the members shall be first based on the shares held by each member. If one has ten thousand shares and all are paid for fully then his liability on share will be zero.

- Assuming that he had guaranteed 20% of his shares and it has not been paid and the company is in a financial problem then he will be required to make good is 20% and to that effect is total liability will be equal to zero.

QUESTION SIX

Marking guide

a.i.	1 mark for defining audit and 1 mark each for any 3 importance of audit	4
ii.	2 marks for 2 similarities and 2 marks for any 2 differences	4
b.i.	1 mark for identification and 1 mark each for any 3 justifications	4
b.ii.	1 mark for explaining a dormant company any 1 mark each for any 3 advantages	4
c.i	1 mark for affirmation and 1 mark each for any 2 justifications	3
ii	1 mark for appropriate procedure, 1 mark for justification and 1 mark for any 2 advantages	4
d.i.	1 mark each for any 2 legal consequences well elaborated	2
ii.	1 mark each for the 2 irregularities identified	2
iii	1.5 mark each for any 2 explanations on the seizure of the assets	3
Total Marks Awarded		30

Model answers

a)

(i) **The candidate should demonstrate knowledge and understanding on auditing and its importance to the company**

- Audit is a systematic examination of the financial or accounting documents of a commercial company by a specialized person, called an auditor, to verify their accuracy and veracity
- Although the law governing commercial companies does not give a precise definition, an audit can be understood as an investigative mission entrusted to a professional (called an auditor) in search of information on a relevant operation or situation of a company and which, according to the convention, consists of verifying the conformity of the operation or situation studied with the rules of law in general or those of a given sector.

Importance of audit to a company

- The importance of an audit is inferred from article 123, law N° 007/2021 of 05/02/2021 governing companies that, depending on the type of audit that is carried out within a company (internal, external) an audit is essential for the following reasons :
- Ensuring that the company's annual balance sheet is in accordance with international accounting standards

- Checking the company internally to see if it conforms to the image it gives to the outside world and the various partners.
- Assess the validity of controls and procedures which must be exhaustive and reliable
- Suggest improvements and measures to correct irregularities
- smooth running of the company in general, and its financial health in particular.
- ensures that the company complies with international norms and standards, as well as national rules and regulations.
- Help in the detection of fraud
- Maintain consistency
- Enable the pursuit of business Objective
- Helps to prepare future plans
- Determine profit or Loss

ii) The candidate should demonstrate knowledge and understanding on the difference/similarities between financial statement and annual report

Key points	Financial statements & annual report
purpose	both are documents that provide information to shareholders about the life and health of the company
recipient authority	Shareholders, registrar general

Concerning similarities, the purpose of both documents is to give a true and fair view of the company's position. The addressing authority who are the shareholders and the registrar general are also the same

Key points	Financial statement	Annual report
Scope	Provide all the information regarding only the financial activities of the company.	Provide a general overview of the company including financial information and non-financial information

Length	shorter than the annual report	Long
Content	Assets, liabilities, profits, expenditures	Products, new markets, strategies, direction of the company

- Regarding their differences, it appears that the annual report is the longer document of the two since it presents the general picture of the company.
- Thus, compared to its counterpart, the annual report contains both non-financial and financial information, which includes the financial statements.
- The latter is limited to the financial situation of the company, profits, and losses. (nature and classes of business potential markets, interesting products

(b) iThe candidate should demonstrate knowledge and understanding on voluntary winding up of a company

- **Identification:** Voluntary winding up
- **Explanation:** a process where shareholders of a company through a resolution consent to terminate the life of a company
- When a company is unable to fulfil all its liabilities., the creditors apply to the court to have it declared bankrupt and thereafter, proceed to its liquidation.
- In this scheme, all powers are taken away from the managers of the company in favour of a person appointed by the court.
- The shareholders can instead decide to end the life of the company while avoiding recourse to the courts.
- This is made through voluntary winding up of the company which is a willing self-imposed process to liquidate the company.

(c) I The candidate should demonstrate knowledge and understanding on liquidation of a company

- **Analysis:** The appointment is valid of Mr. Gakyre as a liquidator is valid
- **Explanation:** under Rwandan law governing companies, anyone can be appointed as a liquidator except expressly those forbidden by the registrar general

- Art 275 of the Law 2021 governing companies provides that the registrar General shall keep an up-to-date index of directors disqualified from being liquidators, including each name, the date, and the duration of the disqualification order.
- It can be inferred from this provision that, except in the case provided in this section, there is nothing which prevents a director (Gakye in the case) from being a liquidator.

II The candidate should demonstrate knowledge and understanding on dormant company.

- **Appropriate procedure:** request for status of dormant company
- A company whose shareholders have issues on paying, but which intend to keep their company, may opt for a procedure aimed at putting the company to be dormant.
- A dormant company is a company that does not carry out any activity and does not receive any income.

Advantages:

Can take the option of going dormant as they reorganize

- The retaining of the business name, which is a considerable business asset; among other things
- Allows the shareholders to reorganize the company while being exempt from audits and the payment of all charges and fees. (Art 268)

(d) I The candidate should demonstrate knowledge and understanding on legal status of a company

- the name: once incorporated, the company is now a type of person recognized by the creation of the law (moral person)
- the patrimony: being a person, the company can have assets and liabilities that are distinct from those of its members
- Locus standi: the company has the capacity to sue or be sued, or to answer for its actions before a court
- domicile: the company as a person has a domicile which is a registered office. This domicile is the place where administrative or judicial communications addressed to the company are delivered, and it is also the seat of operations related to, among other things, the liquidation of the company.
- Nationality: A commercial company has a nationality, which is determined by the laws of the country, which regulates its organization and functioning
- One or more directors: A company must have one or more directors whom at least one must be residing in Rwanda (Art 6 Law 2021 governing companies)

II The candidate should demonstrate knowledge and understanding on legal status of a company

- **Carrying out the activity without the issue of the certificate:** Indeed, Mukiza started operating as a company when the certificate of incorporation, the document that marks the start and recognition of a company, had not yet been issued
- **Direct Intervention in the management of the company (loans from partners):** Mukiza has taken various loans for the company even though he is not the director. Indeed, the creation of a company results in separate management. The shareholders (unless they have been appointed as directors) must not intervene directly in the management of the company

III The candidate should demonstrate knowledge and understanding on legal status of a company

- Mukiza's partners cannot seize his personal assets on the grounds that the company belongs to him.
- The assets to be seized will be those of the company and not of its members

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- The first consequence of the incorporation of a company is that it now enjoys a legal personality separate from its members.
- As a result, there is a corporate veil between the company and its members. The company's creditors cannot seize the property of its members because of this barrier between the company and its members (cf. *Solomon vs. Solomon & Co Ltd 1897*).
- Thus, despite Mukiza's active participation in the realization of these loans from his partners, they remain the company's creditors, not creditors of Mukiza. They can only seize the company's assets.
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THE END OF THE MARKING GUIDE AND MODEL ANSWERS