



**THE HONORABLE SOCIETY OF KING'S INNS**  
**ENTRANCE EXAMINATION**

**AUGUST 2005**

**Examination:** Company Law.  
**Date:** Wednesday 24 August 2005  
**Time:** 10.00 am – 1.00 pm.  
**Internal Examiner:** Professor Henry Ellis  
**External Examiner:** Mr. Lyndon MacCann, S.C.

**Instructions**

**Attempt 4 questions only. Total marks 100. All questions carry equal marks. Answers should be supported by references to statutory and case law sources.**

*Candidates will be given access to copies of the Companies Acts, 1963 to 2003, in the examination hall.*

## **QUESTION 1**

Delta plc held part of a shopping centre in Cork under a lease with Xavial Properties Ltd. This lease contained a clause which prevented Xavial Properties Ltd from granting further leases in the shopping centre to traders in the grocery business. This clause was to protect Delta plc from competition.

Gamma Group plc, which controlled a chain of subsidiary companies, some of whom operated in the groceries business, purchased all the shares of Xavial Properties Ltd. Following this purchase, Xavial Properties Ltd agreed to lease a premises in the shopping centre to Gamma Properties Ltd, a subsidiary company of Gamma Group plc engaged in the business of property development. Subsequently, Gamma Properties Ltd let the same property in the shopping centre to Gamma (Cork) Ltd, a fellow-sub subsidiary company engaged in the grocery business.

Bernard, the managing director of Delta plc, has just heard of this letting to Gamma (Cork)Ltd. He is concerned about its potential effects on Delta plc's business and comes to you for legal advice.

Advise Bernard of the relevant company law rights and remedies, if any, of Delta plc in these circumstances.

## **QUESTION 2**

Arising out of allegations of corporate fraud and misconduct, two inspectors were appointed by the court to investigate the affairs of the Prudential Bank plc. Harry, the bank's managing director, is worried about the implications of this development, both for the bank, and its staff. Harry now comes to you seeking advice as to the extent of the inspector's powers to carry out their investigation; the extent to which bank management and staff must assist them; and the consequences for any employee (including himself) who might give an inspector information which could later be used as evidence in criminal proceedings taken against them.

Advise Harry.

### QUESTION 3

Noel was a significant shareholder in Alpha Ltd, a private company. Because of a personal financial emergency, Noel decided that he had to sell his shares in this company. Matthew, the chairman of the board, and two other directors, Mark and Luke, agreed to buy Noel's shares at €2 a share. The deal went through and Noel sold his shares to Matthew, Mark and Luke, who each purchased one-third of them.

Three months after the sale of his shares, Noel discovers that at the time he agreed to sell his shares to Matthew, Mark and Luke, the board had been negotiating with Beta plc to sell Alpha Ltd. to it at a price of €5 per share. Just two days ago, the board of Alpha Ltd announced that all its shareholders had accepted Beta plc's bid to buy their shares at a price of €5 per share.

Noel now feels he was misled when selling his shares and asks you for legal advice as to what rights, if any, he, or indeed Alpha Ltd, may possess against Matthew, Mark and Luke.

Advise Noel of the relevant law.

### QUESTION 4

Alan holds a small number of shares in Vesuvius Ltd, a private company. John, Paul and George are the three directors of Vesuvius Ltd, who also, between them, hold 80% of the company's ordinary shares.

Alan is unhappy with the manner in which John, Paul and George are running the company. In particular, he is unhappy with what he perceives as excessive levels of directors' remuneration. He is also concerned that a lucrative contract which would, in the ordinary course have gone to Vesuvius Ltd, has been won instead by another company recently incorporated by John, Paul and George.

When Alan tried to raise his concerns and complaints at a recent annual general meeting, John, Paul and George used their voting power to ensure that no resolution was passed at Alan's instigation.

Alan is now even more concerned at this turn of events and comes to you for advice as to whether or not he has any grounds for a court action in respect of his grievances.

Advise Alan of his legal rights, if any.

## QUESTION 5

Martin is an accountant who wishes to specialise in corporate insolvency work. He has been reading the Companies Act 1963 and sees that under Section 213(f), a company may be wound up by the court if the court is of the opinion that it is “just and equitable” that the company should be wound up.

Martin has no idea of what circumstances might constitute “just and equitable” grounds for winding up a company so he turns to you for guidance.

Advise Martin as to how the judiciary have interpreted Section 213(f).

## QUESTION 6

Panorama Printing Ltd. was a private company whose investment and loan capital totalled €1 million.

The investment capital consisted of 500,000 fully paid up ordinary shares of €1 each. The company also had a debenture with the Eastern Bank plc under which it was given a loan of €500,000.

In 2003 the company incurred trading losses of €400,000. At year end 2004 a profit of €200,000 reduced the losses deficiency to €200,000.

James, the managing director of Panorama Printing Ltd. now calls on Brian, the branch manager of Eastern Bank plc, to inform him of a forthcoming special resolution whereby the shareholders of Panorama Printing Ltd will seek to reduce the company’s paid up share capital to €300,000.

Brian is concerned at this development, and seeks your advice as to how the company would go about effecting this reduction of capital, and whether or not the bank, as secured creditors, can take any steps to prevent this reduction happening.

Advise Brian.