

University of Colombo, Sri Lanka
Faculty of Law
Master of Laws Examination – 2017
COMPANY LAW
(Three Hours)

Total number of questions: 04

Answer Three questions only including question No.1.

This examination is conducted under semi open book examination conditions.
No marks will be given for reproducing statutory provisions.

(Candidates will be penalized for illegible handwriting.)

1. Orient Smart Computers PLC (company), a member of Orient Group of Companies, is engaged in the business of information technology solutions.

A clause in the articles of association of the company provides that the company has the power to issue a notice of disclosure calling for information about persons interested in its shares, and empowering the board to restrict the exercise of rights attached to shares in the event of non-compliance. The company issued notice of disclosure on 1st February 2017 requesting information from shareholders X and Y about the number of shares held, their beneficial ownership, and agreements if any between the persons interested in them. X and Y admitted the existence of interests in the shares but denied that there was any agreement. On 20th March 2017, X invited shareholders to oppose the resolutions proposed at the forthcoming annual general meeting on 5th April 2017, including resolutions for the re-election of directors, Oliviya, Peter and Terrence. On a board meeting of the company held on 30th March, the board considered that there were agreements between the addressees of the notice of disclosure which had not been disclosed in the responses. The board resolved to exercise the powers under the company's articles to issue restriction notices in relation to the shares held by X and Y, suspending their right to vote at general meetings and restricting the right of transfer.

The company has a track record of earning profits for the last few years. However the company has not paid the dividends for the last five years. In the meantime the board had unanimously sanctioned an interest free loan of Rs.10,000,000/- to Orient Property Developers Ltd, a member of Orient Group. Peter and Terrence are also directors of Orient Property Developers Ltd which is facing financial difficulties. It was learnt that Oliviya, an independent director, recently marries Mark, a shareholder activist who holds petty shares in many PLCs including Orient Smart Computers PLC. The marriage is kept secret by the board due to personal reasons affecting Oliviya's private life. Further it was found that the company has failed to submit the annual report and annual return for the year 2016.

Consider critically the legal issues that have arisen in the light of the company law of Sri Lanka and the law of another jurisdiction of your choice quoting appropriate concepts, rules and case law. (40 marks)

2. A phrase known as 'Long live the rules in *Foss v. Harbottle*' is continuously canvassed by exponents despite the existence of statutory exceptions to the rules. It suggests that deviation from the rules have their adverse repercussions which have to be given importance in the interest of all parties concerned.

Reflect upon the above statement by critically evaluating Sri Lankan law with that of another jurisdiction of your choice. Your answer should also draw attention to the relevant cases.

(30 marks)

3. The Securities Commission (or Securities and Exchange Commission) is a body that is established mainly to protect the interest of the investors. In a capital market where there are common occurrences of market manipulative activities, especially insider dealing, it cannot be said that investors are protected. It becomes the duty therefore of the governments of such jurisdictions to take meaningful steps to amend the laws in order to cater for better protection to the investors.

Critically appraise the accuracy of the above statement with regard to the capital market of Sri Lanka and suggest reforms to the existing legal framework. Which jurisdiction would be your choice as a model for Sri Lanka to follow suit? Give comparatively evaluated reasons for each of the suggestions. (30 marks)

4. " 'Has the Company Law of Sri Lanka kept pace with commercial needs and expectations of the stakeholders?' is a puzzling question in the minds of many stakeholders. While the Companies Act No.7 of 2007 retains its peculiarity and adoptability to suit Sri Lankan businesses, it has failed to address the necessary complexities that should have been dealt. As a result, it is the compliance cost that is added and the law is not actually facilitating economic development of the country."

Assess the above statement by posing arguments, with legal reasoning, focusing on one stakeholder. Your answer should be a comparative analysis with the company law of another jurisdiction in relation to the same stakeholder and your legal reasoning should be authoritative.

(30 marks)