

ICSA International Qualifying Scheme (IQS): Professional Part 1

CORPORATE LAW

SYLLABUS

AIM

To provide an understanding of the principles of Corporate Law and a thorough knowledge of the regulation of companies by law, including statutes and case laws.

LEARNING OUTCOME

Students who successfully complete these modules on this subject will be able to understand the core principles of corporate law and these include:

- The nature and functions of companies;
- The concept of a company as a corporate entity;
- The relationship between the two major organs in the company, namely the general meeting and the board of directors;
- The relationship between the members inter se and the protection of minorities;
- The law and procedure relating to meetings and the rights of shareholders during meetings
- The concept of corporate liability,
- The concept and meaning of corporate governance, in particular, the duties of directors and the limits on their powers;
- The law relating to corporate finance and corporate control transactions; and
- The effect and consequences when companies undergo the reconstruction, receivership or winding-up process.

LEARNING CONTENTS

Nature of registered companies.

The process and effect of registration - the principles of corporate personality and of limited liability. The distinction between companies and partnerships.

Classification of companies.

Classification by limitation of liability, by method of formation, by size-public and private companies. Holding and subsidiary companies.

Constitution of a company.

The memorandum of association; doctrine of ultra vires. The articles of association, effects of alterations. Promoters.

Flotation.

Methods of flotation. Prospectus-form and content. Misrepresentation and omissions. Allotment of shares and commencement of business. Underwriting and commission.

Corporate transactions.

Capacity of companies and the concept of agencies as applied to companies. Pre-incorporation contracts. The Corporate seal.

Share Capital.

Raising, maintenance and reduction of share capital. The principle of capital. Issue of shares at a premium and at a discount. Acquisition and redemption by a company of its own shares. Methods of flotation, prospectus, Bursa Malaysia Berhad listing requirements. Dividends.

Shares.

Nature and types of shares. Variation of class rights. Membership and the register of members. Disclosure of substantial and nominee share holdings. Share Certificates-transfer and transmission of shares. Restrictions on transfer. Mortgage of shares. Calls, liens, surrender and forfeiture of shares. Share warrants. Effects of shares deposited with the Central Depository.

Loan Capital.

Borrowing powers of a company. Debentures and debenture stock. Charges securing debentures-fixed and floating charges. Registration of charges. Remedies of debenture-holders.

Corporate Governance.

Directors-Qualification; appointment and remuneration; disclosure; service contracts; removal; retirement and disqualification; powers and fiduciary duties; loans by company to directors and contracts in which directors are interested. Role and duties of directors in relation to good corporate governance.

Company Secretary.

Qualification, appointment, vacation of office, duties and responsibilities.

Auditors.

Appointment and removal; powers and duties.

Meetings and shareholders' rights.

Types of meetings; convening of and proceedings at meetings; resolutions; majority control rule; protection of minority shareholders.

Insider Dealing.

Types; elements of insider trading; remedies and statutory relief.

Reconstruction, Disputes and Liquidation.

Reconstruction and takeovers; reconstruction Compulsory acquisition of shares on takeover and schemes of arrangements.

Compulsory and voluntary liquidation.

Including grounds for winding up, order of application of assets of insolvent companies, preference and avoidance of transactions, fraudulent trading and wrongful trading, outline of powers and duties of liquidator and consequences of winding-up.

NOTE

Students are expected to have an understanding of the relevant provisions of the Companies Act 1965. Students should also have a working knowledge of other laws and regulations such as:

- i. Securities Commission Act 1993;
- ii. Capital Markets and Services Act 2007;
- iii. Malaysian Code on Corporate Governance; and
- iv. Bursa Malaysia Listing Requirements.

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RECOMMENDED READING

1. **MAICSA Study Manual** - Corporate Law
2. **Rachagan, Pascoe & Joshi**, “*Concise Principles of Company Law*” (Malayan Law Journal)
3. **Cheah Foo Seong**, “*Guide to Company Law & Secretarial Practice, Malaysia*” (CCH Asia)
4. **Ben Chan Chong Choon, Philip Koh Tong Ngee & Peter SW Ling**, “*Chan & Koh on Malaysian Company Law: Principles and Practice*” 2nd Edition (Thomson/Sweet & Maxwell Asia)
5. **MAICSA**, “*Directors & Corporate Officers: Case Summaries*” (CCH Asia Pte. Ltd. 2003)
6. **Mohd Sulaiman, A. N. & Bidin, A., Hanrahan, P., Ramsay, I. & Stapledon, G.**, (2008) “*Commercial Applications of Company Law in Malaysia*” 3rd Ed. Kuala Lumpur: CCH

FURTHER READING

1. **Company Law in Malaysia**
 - (i) **Loh Siew Cheang**, “*Corporate Powers: Accountability*” (Butterworths)
 - (ii) **Krishnan Arjunan**, “*Company Law in Malaysia: Cases and Commentary*” (Malayan Law Journal)
 - (iii) **Woon W.C.M.**, “*Company Law*” (FT Law & Tax Asia Pacific)

2. Company Law in England

- (i) **Farrar, Hannigan & Wylie**, “*Farrar’s Company Law*” (Butterworths)
- (ii) **Gower, Prentice & Pettet**, “*Gower’s Principles of Modern Company Law*” (Sweet & Maxwell)
- (iii) **Sealy**, “*Cases and Materials in Company Law*” (Butterworths)

STATUTES:

1. The primary statute governing Company Law in Malaysia is the Companies Act 1965.
2. Other relevant statutes include Securities Industry Act 1983 and the Securities Commission Act 1993 and the Capital Market Services Act 2007.