

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination May – 2025

Semester: UG VI Semester

Subject: Company Law II (Compulsory)

Time: Three Hours

Marks: 100

Instructions :

- i. Each question carries equal marks.
- ii. The Students are required to attempt only five out of the six questions
- iii. Any specific requirements provided within the questions are to be adhered while answering the same.
- iv. Question Nos. 1 & 3 are mandatory to attempt, the Students may attempt any Three (3) out of the remaining Questions.

Q.1). Republic of Metropolis is a developed economy and is known as the 'Global Oil Depot', due to its rich natural oil reserves and flourishing oil business. Alexandria is the capital city of Metropolis. In mid-2000s, the Government of Metropolis felt the need to revamp its regulatory regime and make it more consistent with the global best practices. The efforts resulted in the drafting of the Companies Bill, 2011, which was later passed by the legislature in the year 2013. One of the new provisions that the enacted act introduced was the requirement of appointment of Independent Directors by the public limited companies, with an intention of strengthening the corporate governance mechanism in the public companies.

Astapor Ltd. (**Astapor**) is one of the major players in the oil market of Metropolis having a market share of 35%, however it is owned by Wayne Enterprises Ltd. (**Wayne Enterprises**) a global conglomerate. Previously, in 2009 Fantasia Oxy Ltd. (**Fantasia**), a manufacturer of Oil Tankers, sought to invest in the growing oil industry of Metropolis, in doing so, it acquired controlling stake in Atlantic Corporation Pvt. Ltd. (**Atlantic**), a domestic producer of oil tankers.

With the support of Fantasia, the market power Atlantic grew considerably and so did its business capabilities. In 2014, with an intention of further grow its hold over the market, Atlantic acquired controlling stake in Grand Trunk Ltd. (**Grand Trunk**), a competitor of Atlantic in the oil tanker manufacturing market. A certain shareholder of Grand Trunk was Felicity Owens Pvt. Ltd., which was a One Person Company (OPC), owned by Ms. Felicity Owens, the step-mother of Mr. Saunder Williams. Ms. Owens later sold off her shares and exited Grand Trunk Company in April, 2019

In June, 2018, an arrangement deed was jointly submitted to the ROC, Alexandria, by Astapor and Fantasia, wherein, Astapor acquired 64% stake in Fantasia. The acquisition was made with an intent of streamlining the various facets of oil industry and benefitting from the resulting cooperation. The same was approved by the ROC in January 16, 2019.

Ewing Oil Co. Ltd. (Ewing) is a public limited company with the primary business of manufacturing oil rigs, which an essential instrument for drilling natural oil. Recently, owing to the changes in the regulatory changes Ewing was looking for suitable candidates for the appointment as an Independent Directors (ID/IDs), as the tenure of the present IDs had come to an end. After several deliberations, the BOD had approved the name of Mr. Saunder Williams (Mr. Williams), it was duly presented before the shareholders of the Company in the Annual General Meeting that took place in November 24, 2017 and the same was approved by the shareholders as well.

The appointment of Mr. Williams proved to be masterstroke as he proved instrumental in exponential growth of the company. He was also instrumental in bringing Ewing and Wayne Enterprises to the negotiation table and facilitated a merger in March, 2019 between the two entities, wherein, Ewing became a subsidiary of the Wayne Enterprise. This earned him a lot of accolades and appreciation from the stakeholders of the company. However, trouble brewed soon after, as Ewing failed to furnish its Annual Financial Statement without any reasonable justification for consecutively two years.

The Metropolitan Herald, a national daily having a wide subscription base, allegedly conducted a sting operation and found out that Mr. Williams had refused to sign the audit papers on account of certain discord with respect to remuneration amount. When Mr. Williams was asked about the same, he simply stated that he is being framed and rather there are several discrepancies in the CSR report and the Audit report for which he had refused to sign the requisite documents. Owing to such allegations, Ewing received a lot of bad press. Consequentially, Mr. Peter Holland, a shareholder (owning 10% shareholding) in the Company, filed a complaint on the grounds of oppression and mismanagement taking place in the Company. He also raised doubts over the eligibility of Mr. Williams to operate as an independent director. The National Company Law Tribunal (NCLT), having heard the complaint of Mr. Holland have framed various issues pertaining to oppression, mismanagement, qualification and liability of Mr. Saunder Williams.

The students are required to answer the following issues only:

- i. Whether Mr. Saunder Williams is qualified to act as an Independent Director of Ewing? [Word Limit: 500 words] (10 Marks)
- ii. Determine the Liability of Mr. Williams? [Word Limit: 500 words] (10 Marks)

Q.2). *“Companies Bill, 2011 was empathetic as well as pragmatic in its understanding about the urgency of gender parity and need for breaking the prevalent glass ceilings with respect to the managerial positions for women. Consequently, the Companies Act, 2013 enacted specific provisions mandating the appointment of women in directorial positions. The enactment was meant to be a watershed moment in the history of corporate regime of the country, however, seven years post its enactment, there have been questions regarding the efficacy and relevance of the said provisions.”*

Based upon the context of the above phrase, provide a brief discussion regarding the legal position Women Directors under Companies Act and other relevant legislations. Additionally, provide a brief opinionated discussion regarding the legal relevance of such provisions in India. [Word Limit: 1000 words] (Marks 20)

being pretentious and was grossly over-valuing his Company's fortunes and prospective growth.

On 14th December, 2024, Green Tech approached the shareholders of Stark with an offer and made a cumulative offer of Metropolitan \$ 90 billion, (which was double the current market price of the Company's shares). By, 01st March 2025, 90.5% shareholders of Stark had accepted Green Tech's offer. Thereafter, Green Tech, in accordance with the established legal procedures under the relevant provisions of the Companies Act, 2013, sent a notice to the remaining shareholders on 05th April, 2025. Mr. Tony Stark, the Promoter and the Managing Director of the Stark with shareholding of 3.8%, was completely blindsided by the notice sent by Stark. He felt that the conduct of Green Tech was rather reproachful and was in response to the failed negotiations with Dr. Banner a year earlier. After due consultations with his lawyers, Mr. Stark has approached the National Corporations Tribunal (NCT) challenging the notice of Dr. Banner, claiming that, the notice is invalid under Companies as the current actions of Dr. Banner is necessarily a takeover bid and should not be covered within the provisions of Companies Act.

Being the Chairperson of NCT, pass a reasoned order in accordance with the above factual matrix. Also give reasons to substantiate your answers. [Word Limit: 1000 words]

(Marks 20)

Q.4). Discuss the Legal position concerning the Power of Tribunal vis-à-vis Alteration of the Scheme of Compromise under Companies Act, 2013 r/w NCLT Rules, 2016, with the help of decided case laws. [Word Limit: 1000 words]

(Marks 20)

Q.5) Provide a Brief Discussion on: (Marks 10*2)

(i) The notion of 'Good Faith' Obligation as a Duty of the Director as enumerated by the Hon'ble Supreme Court in its recent decisions. [Word Limit: 500 words]

(ii) Discuss the problem of 'Duality of Nominee Directors' existing within the Companies Act, 2013. Furthermore, suggest the approach of the Courts in resolving such duality. [Word Limit: 500 words]

Q.6) "The topic concerning liability of the directors have always been a debatable discussion within the Indian corporate regime. However, it assumes an entirely different context, when considered from the perspective of Independent directors. While, Executive Directors are considered as agents of the companies and hence are held liable under the principle of 'officer in default', the case of Independent Directors is often marred with curious peculiarities. On expected lines, the debate concerning the liability of independent directors is a case of polarized views. Although, the Companies Act has attempted to address the issue, a settled position of law concerning the same, is still a long way out".

In light the above context, please discuss the prevalent legal position concerning Independent Directors, with due considerations being accorded to the legal provisions and case laws. [Word Limit: 1000 words]

(Marks 20)

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Instructions :

- i. Each question carries equal marks.
- ii. The Answer script is either to be typed (MS Word, Times New Roman, Font size 12 with Spacing 1.5) or in their own handwriting on plain paper and upload it in the PDF format file.
- iii. Question Nos. 5 & 6 are mandatory to attempt, from remaining Questions, attempt any Three (3) Questions
- iv. Any specific requirements provided within the questions are to be adhered while answering the same.

Q.1). *“The topic concerning liability of the directors have always been a debatable discussion within the Indian corporate regime. However, it assumes an entirely different context, when considered from the perspective of Independent directors. While, Executive Directors are considered as agents of the companies and hence are held liable under the principle of ‘officer in default’, the case of Independent Directors is often marred with curious peculiarities. On expected lines, the debate concerning the liability of independent directors is a case of polarised views. Although, the Companies Act has attempted to address the issue, a settled position of law concerning the same, is still a long way out”.*

Given the above context, please discuss the prevalent legal position concerning Independent Directors, with due considerations being accorded to the legal provisions and case laws.
[Word Limit: 1000 words] (Marks 20)

Q.2). *“Companies Bill, 2011 was empathetic as well as pragmatic in its understanding about the urgency of gender parity and need for breaking the prevalent glass ceilings with respect to the managerial positions for women. Consequently, the Companies Act, 2013 enacted specific provisions mandating the appointment of women in directorial positions. The enactment was meant to be a watershed moment in the history of corporate regime of the country, however, seven years post its enactment, there have been questions regarding the efficacy and relevance of the said provisions.”*

Based upon the context of the above phrase, provide a brief discussion regarding the legal position Women Directors under Companies Act and other relevant legislations.

Additionally, provide a brief opinionated discussion regarding the legal relevance of such provisions in India. [Word Limit: 1000 words] (Marks 20)

Q.3). Write short notes on:

(Marks 10*2)

(a) Legal position concerning the Power of Tribunal vis-à-vis Alteration of the Scheme of Compromise under Companies Act, 2013 r/w NCLT Rules, 2016. [Word Limit: 500 words]

(b) The legal framework concerning the Corporate Social Responsibility within the Companies Act, 2013 framework, while discussing the relevant rules as well. [Word Limit: 500 words]

Q.4) Discuss the legal position of Dispensation of Meeting in the event of an application u/s § 230(1), Companies Act, 2013 with the help of various judicial pronouncements. [Word Limit: 1000 words] (Marks 20)

Q.5) Bowman Mercantile Group (*hereinafter* BM Group) is a well industrial family in the country of Mordor. It was incorporated in 1919 under the Mordor Companies Act 1913. Over the years it has established a wide range of businesses ranging from FMCG products to heavy industrial product manufacturing businesses. In 1999, BM Group [61.23%] entered into a Multi-Party Joint Venture Agreement (*hereinafter* Agreement) with Beatles Hard Rock Enterprises (Mauritius) LLC. [(a subsidiary of Beatles Hard Rock Enterprises Holding LLC, which was a Company incorporated in United States involved in Telecom and Entertainment Industry)] (*hereinafter* Beatles) [7.27%], Bowman Technology Inc. Ltd. (*hereinafter* BTIL) [12.77%], Avantal Proprietary Ltd. (Avantal) [11%] and Birla AT&T Communications Ltd. (*hereinafter* BACL). The agreement led to the establishment of B&B Cellular Incorporated Ltd. (BCIL) [7.73%].

In 2013 BM Group floated the Bowman Tele Services Pvt. Ltd., (*hereinafter* 'BTS') a company established with a primary motive to operate as a modern telecommunications company, and has currently applied to the Telecom Regulatory Authority of Mordor (TRAM) for securing 5G licenses which is supposedly the upcoming technology for Mordor.

The BM Group is the majority shareholder of BTS holding 99.99% shares, with the remaining shares being held by Bowman Sons Ltd. (*hereinafter* BSL) and Bowman Heavy Electrical Industries Ltd. (*hereinafter* 'BHEL'). BM Group holds 15% shares in BSL with the right to an affirmative veto and appoint 3 Wholetime Directors and the appoint the Chairman of the Board. BSL holds majority shareholding in BTIL, which in turns holds 24% shares in Avantal and 10% shares in BHEL along with appointment of 4 out of 9 directors on the board, including the Managing Director.

In 2021, a contract was entered into between BTS and BCIL for the issuance of Share Warrants (*a derivative instrument which does not have an underlying asset to it during the time of issuance and allows the issuer the authority to ascribe the underlying at any point*

In 2015 AD Group floated the HydroCars EV pvt. ltd., (*hereinafter* 'HydroCars') a company established with a primary motive to manufacture green technology automobiles using electricity and hydrogen gas as fuel. The AD Group is the majority shareholder of HydroCars holding 99.99% shares, with the remaining shares being held by Dutchman Sons Ltd. (*hereinafter* DSL) and Catalonia Hydro Electrical Industries Ltd. (*hereinafter* 'CHEL'). AD Group holds 15% shares in DSL with the right to an affirmative veto and appoint 3 Wholetime Directors and the appoint the Chairman of the Board. DSL holds majority shareholding in TIL, which in turns holds 24% shares in Azure and 10% shares in CHEL along with appointment of 4 out of 9 directors on the board, including the Managing Director.

In July 2020, Elder Musk, founder of HydroCars, invested ME\$ 800 million in Twitterati to acquire 2% shareholding in the Company. However, in May 2021, Mr. Musk, went ahead and made an offer to all the shareholders of the Company and made a cumulative offer of ME\$ 80 billion, which was double the price of the current market valuation of the company. By, September, 2021, Mr. Musk's was accepted by 91% shareholders of Twitterati. Thereafter, Mr. Musk, following the legal procedures under the relevant provisions of the Middle Earth Companies Act, 2013, sent a notice to the remaining shareholders.

However, Ms. Delilah Derbrook, the Managing Director of the Company as well as a shareholder (with ~ 2.3%) shareholding approached the Middle Earth National Commercial Tribunal (NCT) challenging the notice of Mr. Musk, claiming that, the notice is invalid as the current actions of Mr. Musk is necessarily a takeover bid and should not be covered within the provisions of Companies Act.

Being the Chairperson of NCT, pass a reasoned order in accordance with the above factual matrix. Also give reasons to substantiate your answers.

*** The laws of Middle Earth are *pari materia* to the laws of the Republic of India**

[Word Limit: 1000 words]

(Marks 20)