

CHARTERED GOVERNANCE QUALIFYING PROGRAMME (CGQP)

Programme Part 1

1.1 Corporate Law

Introduction

The aim of this module is to provide a thorough grounding in, and knowledge and understanding of, the legal framework governing certain business organisations, with particular focus on the registered company. Where appropriate, the module will also cover relevant corporate governance topics, and the relationship between company law and corporate governance

Module content

- Section A: Sources of law, business structures and company formation
- Section B: The board of directors
- Section C: Membership of a company
- Section D: Capital and corporate transparency
- Section E: Corporate restructuring, rescue and liquidation

Learning outcomes

After successful completion of this module you should be able to:

- 1 Understand the legal framework within which commercial organisations operate, their business structures and corporate personality.
- 2 Be able to understand the roles and statutory duties of directors, as well as the composition and structure of the board.
- 3 Understand the internal rules and the external regulatory environment which companies are subject to regarding membership.
- 4 Be able to apply relevant legislation, case law and best practice recommendations to legal and governance issues arising in complex scenarios, relating to shares, capital maintenance and loans.
- 5 Be able to exercise appropriate judgement when presenting advice on structural and legal issues in a relevant form (corporate restructuring).

Section A: Sources of law, business structure and company formation

Learning outcome:

- Understand the legal framework within which commercial organisations operate, their business structure and corporate personality

Key topics

- A1 Sources of company law and governance
- A2 Business structures
- A3 Incorporation and corporate personality
- A4 Legally binding the company

A1 Sources of company law and governance

- A1.1 The importance of legislation as a source of company law
- A1.2 The Companies Acts and the Company Law Review
- A1.3 The structure, importance and evolution of the Companies Act 2006
- A1.4 Other notable Acts of Parliament
- A1.5 The role of subordinate legislation
- A1.6 The Department for Business, Energy and Industrial Strategy:
- A1.7 Rules with legislative backing (e.g. the Listing Rules, the City Code on Takeovers and Mergers)
- A1.8 The importance of case law as a source of company law
- A1.9 The importance of the constitution as a source of company law
- A1.10 The importance of contracts as a source of company law
- A1.11 Corporate governance codes and reports
- A1.12 The role of corporate governance codes
- A1.13 The role of corporate governance reports

A2 Business structures

- A2.1 Sole proprietorships
- A2.2 Partnerships
- A2.3 Limited partnerships
- A2.4 Limited liability partnerships
- A2.5 Companies, including classification of companies
- A2.6 Share capital
- A2.7 Limited and unlimited companies
- A2.8 Specific company types
- A2.9 Re-registration
- A2.10 Mutual organisations

A3 Incorporation and corporate personality

- A3.1 Promotion and pre-incorporation contracts
- A3.2 Incorporation of an unregistered company
- A3.3 Incorporation of a registered company:
- A3.4 Corporate personality
- A3.5 The case of Salomon v A Salomon & Co Ltd
- A3.6 Consequences of corporate personality
- A3.7 Circumventing corporate personality via contract
- A3.8 Corporate liability:

A4 Legally binding the company

- A4.1 How companies enter into contracts
- A4.2 The constitution of a company
- A4.3 The memorandum of association
- A4.4 The articles of association
- A4.5 The constitution as a contract
- A4.6 Corporate capacity
- A4.7 Agency and the authority of agents
- A4.8 Board authority

Section B: The board of directors

Learning outcome:

- Be able to understand the roles and statutory duties of directors, as well as the composition and structures of the board.

Key topics

- B1 The board of directors
- B2 The role of the board
- B3 Directors' duties

B1 The board of directors

- B1.1 Defining a 'director'
- B1.2 The legal status of a director
- B1.3 Types of director
- B1.4 Specific board roles
- B1.5 The appointment of directors
- B1.6 Directors' remuneration
- B1.7 Board structure and composition
- B1.8 Vacation of office
- B1.9 Removal of a director
- B1.10 Disqualification of a director

B2 The role of the board

- B2.1 The general functions of the board
- B2.2 The managerial powers of the board
- B2.3 The rules relating to board meetings
- B2.4 The company secretary

B3 Directors' duties

- B3.1 The general duties
- B3.2 Remedies for breach of duties
- B3.3 Avoiding liability
- B3.4 Transactions requiring member approval

Section C: Membership of a company

Learning outcome

- Understanding the internal rules and the external regulatory environment which companies are subject to regarding membership

Key topics

- C1 Membership
- C2 Company meetings and decision making
- C3 Members' remedies

C1 Membership

- C1.1 Defining membership:
- C1.2 The register of members:
- C1.3 Inspection of the register
- C1.4 Transparency and membership
- C1.5 Termination of membership

C2 Company meetings and decision-making

- C2.1 How public and private companies make decisions
- C2.2 Resolutions, and the unanimous assent rule
- C2.3 Rules relating to general meetings

C3 Members' remedies

- C3.1 Personal, representative, and corporate actions
- C3.2 The derivative claim
- C3.3 The unfair prejudice remedy
- C3.4 The petition for winding up

Section D: Capital and corporate transparency

Learning outcome

- Be able to apply relevant legislation, case law and best practice recommendations to legal and governance issues arising in complex scenarios, relating to shares, capital maintenance and loans.

Key topics

- D1 Shares and share capital
- D2 The capital maintenance rules
- D3 Loan capital
- D4 Corporate transparency
- D5 Market abuse

D1 Shares and share capital

- D1.1 What is a share?
- D1.2 Terms used to describe share capital
- D1.3 Allotment and issuing of shares
- D1.4 Offering shares to the public
- D1.5 Classes of share
- D1.6 Transfer and transmission of shares

D2 The capital maintenance rules

- D2.1 Definition of the doctrine of capital maintenance
- D2.2 Alteration of share capital
- D2.3 Acquisition of own shares:
- D2.4 Financial assistance to acquire shares
- D2.5 Distributions:

D3 Loan capital

- D3.1 Sources of loan capital
- D3.2 The power to borrow
- D3.3 Security
- D3.4 Charges
 - the effects of non-registration

D4 Corporate transparency

- D4.1 The statutory registers:
- D4.2 The annual accounts and reports
- D4.3 The auditor

D5 Market abuse

- D5.1 The offence of insider dealing:
- D5.2 Offences relating to financial services
- D5.3 The market abuse regime

Section E: Corporate restructuring, rescue and liquidation

Learning outcome

- Be able to exercise appropriate judgement when presenting advice on structural and legal issues in a relevant form (corporate restructuring)

Key topics

- E1 Corporate restructuring
- E2 Corporate rescue
- E3 Liquidation and dissolution

E1 Corporate restructuring

- E1.1 Schemes of reconstruction
- E1.2 Schemes of arrangement
- E1.3 Takeovers

E2 Corporate rescue

- E2.1 The rescue culture

E3 Liquidation and dissolution

- E3.1 Circumstances under which a company becomes insolvent
- E3.2 Liquidation
- E3.3 The role of the liquidator
- E3.4 Malpractice before and during liquidation
- E3.5 Adjustment of prior transactions
- E3.6 Dissolution
- E3.7 Restoration

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