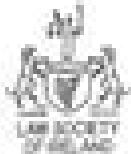


# LAW SOCIETY OF IRELAND



## FINAL EXAMINATION - FIRST PART

TUESDAY 14 MARCH 2023

10.00AM – 1.00PM

### COMPANY LAW

EXTERNAL EXAMINER: PROFESSOR BRIAN HUTCHINSON  
INTERNAL EXAMINER: DR THOMAS B COURTNEY

### ANSWER FIVE QUESTIONS

All questions carry equal marks. Questions in two or more parts have an equal allocation of marks for each part, except where otherwise stated.

#### QUESTION ONE

"The members of a company can give their consent to a proposed course of action in four distinct ways:

- (a) by a resolution passed at a general meeting of the company, duly convened and held (whether physically or virtually);
- (b) by a unanimous written resolution or in the case of a single member company, by the written decision of the sole member;
- (c) by a majority written resolution; and
- (d) by an affidavit, created through that unanimous informal agreement."

You are required to explain the operation of each of these four means and you must cite all relevant case and statute law in your answer.

#### QUESTION TWO

Brian is a director of Alpine Cars Limited (the "Company") which operates a car sales business. Brian is not a shareholder in the Company which is owned by a family consortium headed-up by George although Brian has worked in the Company for 10 years, first as a car salesman before being promoted in a number of occasions until finally being appointed a director of the Company with responsibility for sales. There are three other directors (all family members, making four directors in total).

George, the majority shareholder and Managing Director of the Company approaches you for advice. It has come to his knowledge that Brian has been "double-dealing" for the last two years selling second-hand cars (through a website hosted by his wife, Helen). Specifically, George has heard that Helen has been buying cars from Brian that were traded in to the Company at a discounted price before they sell them on for a significant profit on their website and Brian has been using the Company's garage-workshop to service the cars lots of right and on Sundays when the garage-workshop is closed. He has used spare parts belonging to the Company but has not reimbursed the Company for these.

You are required to advise George on the following:

- (a) whether you believe there have been any breaches of the duties owed to the Company by its director, Brian, under Part 5 of the Companies Act 2014; and
- (b) the remedies that are available to the Company arising from any breach of duties.

In your answer you must cite all relevant case and statute law and attempt to apply them to the facts provided above.

#### QUESTION THREE

Tony, Romeo and Maya are equal shareholders, holding 10 shares each in Driggs Enterprises Limited (the "Company"). The Company was established by their late mother Madge and each

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## **Table of Contents Fe1 Exam Papers**

1. Understanding the eBook Fe1 Exam Papers
  - The Rise of Digital Reading Fe1 Exam Papers
  - Advantages of eBooks Over Traditional Books
2. Identifying Fe1 Exam Papers
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Fe1 Exam Papers
  - User-Friendly Interface
4. Exploring eBook Recommendations from Fe1 Exam Papers
  - Personalized Recommendations
  - Fe1 Exam Papers User Reviews and Ratings
  - Fe1 Exam Papers and Bestseller Lists
5. Accessing Fe1 Exam Papers Free and Paid eBooks

- Fe1 Exam Papers Public Domain eBooks
- Fe1 Exam Papers eBook Subscription Services
- Fe1 Exam Papers Budget-Friendly Options

6. Navigating Fe1 Exam Papers eBook Formats

- ePUB, PDF, MOBI, and More
- Fe1 Exam Papers Compatibility with Devices
- Fe1 Exam Papers Enhanced eBook Features

7. Enhancing Your Reading Experience

- Adjustable Fonts and Text Sizes of Fe1 Exam Papers
- Highlighting and Note-Taking Fe1 Exam Papers
- Interactive Elements Fe1 Exam Papers

8. Staying Engaged with Fe1 Exam Papers

- Joining Online Reading Communities
- Participating in Virtual Book Clubs
- Following Authors and Publishers Fe1 Exam Papers

9. Balancing eBooks and Physical Books Fe1 Exam Papers

- Benefits of a Digital Library
- Creating a Diverse Reading Collection Fe1 Exam Papers

10. Overcoming Reading Challenges

- Dealing with Digital Eye Strain
- Minimizing Distractions
- Managing Screen Time

11. Cultivating a Reading Routine Fe1 Exam Papers

- Setting Reading Goals Fe1 Exam Papers
- Carving Out Dedicated Reading Time

12. Sourcing Reliable Information of Fe1 Exam Papers

- Fact-Checking eBook Content of Fe1 Exam Papers
- Distinguishing Credible Sources

13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development

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- Exploring Educational eBooks
- 14. Embracing eBook Trends
  - Integration of Multimedia Elements
  - Interactive and Gamified eBooks

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