Syllabus

Business Organizations

(Revised for January 2019)

Candidates are advised that the syllabus may be updated from time-to-time without prior notice.

Candidates are responsible for obtaining the most current syllabus available.
Business Organizations

BASIC REQUIREMENTS:

To succeed in this examination students must demonstrate that they are acquainted with the three most common forms of organization used to carry on business: the sole proprietorship, the partnership and the corporation. Students must be able to explain the nature of the interests at stake in a business enterprise, including those of owners, managers, employees, creditors and the public, and the ways in which the law governing sole proprietorships, partnerships and corporations mediates among the interests of these stakeholders. In particular, the examination will focus on the corporation and the rights and responsibilities of three stakeholder groups: shareholders, directors and officers.

REQUIRED MATERIALS:


Consolidated Canada Business Corporations Act and Regulations (Toronto: Carswell, latest edition)(referred to as “CBCA” in syllabus)


* Please note that the corporate and partnership legislation may have been amended in some ways since the publication of the Casebook and VanDuzer. Students must review the relevant current provisions of the statutes for each section of the course. Where a statute has been amended, the provisions of the amended statute prevail over any description of the law in the Casebook or VanDuzer that is inconsistent with the amendment.

** Students taking this examination for qualification in provinces other than Ontario should refer to the corresponding provisions of the local provincial legislation wherever provisions of Ontario legislation are referred to. A table of concordance showing the provisions of each provincial corporate statute that correspond to the provisions of the Canada Business Corporations Act is provided in Consolidated Canada Business Corporations Act and Regulations.
OTHER RESOURCES:

W. Gray, CANADA BUSINESS CORPORATIONS ACT (Toronto: Carswell, first published 1994, now looseleaf)

W. Gray & C.W. Halladay, GUIDE TO CBCA REFORM: ANALYSIS AND PRECEDENTS (Toronto: Carswell, 2003)

C. C. Nicholls, CORPORATE LAW (Toronto, Emond Montgomery, 2005)

B. Welling, CORPORATE LAW IN CANADA, 3d ed. (Toronto: Carswell, 2006)

I - INTRODUCTION

What is a Business?

Basic Forms of Business Organization

Sole Proprietorships
Partnerships
Corporations
Other Methods of Carrying on Business

Required Reading: Casebook pp. 1-4
VanDuzer pp. 1-25

II - PARTNERSHIPS

(a) What is a Partnership?

Required Reading: Casebook pp. 4-30
VanDuzer pp. 28-51

Statutory References: Partnerships Act, R.S.O. 1990, c. P.5 (referred to as “P.A.” in Syllabus), ss. 1-5, 45
Business Names Act, R.S.O. 1990, c. B.17, ss. 1, 2, 6-7, 10

(b) How Does a Partnership Carry on Business?

(i) Relations Between Partners

Required Reading: Casebook pp. 39-41
VanDuzer pp. 51-57

Statutory References: P.A. ss. 20-31

(ii) Relations With Third Parties

Required Reading: Casebook pp. 41-43
VanDuzer pp. 57-70

Statutory References: P.A. ss. 6-19
(c) Dissolution of the Partnership

Required Reading: VanDuzer pp. 70-72
Statutory References: P.A. ss. 26, 32-44

(d) Partnership Agreements

Required Reading: VanDuzer pp. 73-81

(e) Other Relationships

(i) Joint Ventures

Required Reading: Casebook pp. 57-58
VanDuzer pp. 81-84
Statutory References: P.A. ss. 2, 3, 32(b)

(ii) Limited Partnerships

Required Reading: Casebook pp. 43-54
VanDuzer pp. 84-92
Statutory References: Limited Partnerships Act, R.S.O. 1990, c. L.16, ss. 2-18, 21, 22, 24-6, 33

(iii) Limited Liability Partnerships

Required Reading: Casebook pp. 44-56
VanDuzer pp. 67-70
Statutory References: P.A. ss. 10, 44.1-44.4

III - THE CORPORATION

(a) Introduction

(i) General

Required Reading: VanDuzer pp. 96-105
(ii) Constitutional Matters:

Division of Powers
The Charter

Required Reading: Casebook pp. 68-69
VanDuzer pp. 106-120

(iii) Incorporation Process

Required Reading: VanDuzer pp. 121-124

Statutory References:
CBCA ss. 5-9, 15, 19(2), 20, 21, 106(1)
Forms 1, 2
OBCA ss. 4-7, 15, 140, 145, 146
Forms 1, 2

(iv) Function of Corporate Law

Required Reading: VanDuzer pp. 124-134

(v) The Operation of Corporate Law: Rules for Corporations of Different Scales

Required Reading: VanDuzer pp. 134-138

(vi) Corporate Law and Securities Law

Required Reading: VanDuzer pp. 512-523

(b) Nature of the Corporation

(i) Separate Existence and Limited Liability

Required Reading: Casebook pp. 69-78, 80-90
VanDuzer pp. 138-142, 153-155

Statutory References:
CBCA ss. 6, 10, 15, 45(1)
OBCA ss. 5, 10, 15, 92(1)
(ii) Disregard of Corporate Legal Personality

Required Reading: Casebook pp. 102-130, 134-142, 147-151
VanDuzer pp. 142-153

Statutory References: CBCA ss. 45(1)
OBCA ss. 92(1)

(c) Incorporation

(i) Considerations and Process

Required Reading: Casebook pp. 167-168, 171-177
VanDuzer pp. 159-160, 177-200

Statutory References: CBCA ss. 2(1)(definition of “distributing corporation”), 2(6), 2(7), 5-9, 15, 16, 19, 20, 21, 22, 28, 45, 49(8)-(11), 102(2), 103-106, 109, 113-115, 126, 130, 132, 139, 140, 141, 149, 155, 160, 162, 163, 171, 173(1)(b), 174(1), 187, 188, 250, 251, 254, 263
Forms 1, 2, 22
CBCA Reg. s. 2, Schedule 5
OBCA ss. 1(1)(definition of “offering corporation”), 1(6), 4-7, 14-17, 26, 42, 54, 56(8), 92(1), 93, 101, 103, 104, 111, 115-119, 122, 126, 127, 129, 138, 139, 140, 141, 143-146, 148, 149, 153, 154, 156, 158, 160, 168, 180, 181, 256-258, 263
Forms 1, 2
Business Names Act, ss. 2(1), (6), 7
Corporations Information Act, R.S.O. 1990, c. C.39, ss. 11-4, 13, 14, 18
(ii) Corporate Names

Required Reading: CASEBOOK pp. 177-178
VanDuzer pp. 161-177

Statutory References: CBCA ss. 6(1)(a), 10-13
CBCA Reg. ss. 17-32
OBCA ss. 8-12;
OBCA Reg. ss. 1-22
Business Names Act, s. 6

(iii) Pre-incorporation Contracts

Required Reading: CASEBOOK pp. 187-187, 196-204
VanDuzer pp. 200-208

Statutory References: CBCA s. 14
OBCA s. 21

(d) The Corporation in Action

(i) Liability of Corporation for Crimes and Torts

Required Reading: CASEBOOK pp. 152-165
VanDuzer pp. 211-227

Statutory References: NONE

(ii) Corporate Agency (Liability of Corporation in Contract)

Required Reading: CASEBOOK pp. 246-253
VanDuzer pp. 227-243

Statutory References: CBCA ss. 16-8
OBCA ss. 17-9
(e) Shares and Shareholders

(i) Introduction to Shares

Required Reading: Casebook pp. 585-605
VanDuzer pp. 247-250

Statutory References: 
**CBCA** ss. 20, 21, 24, 48, 49, 50, 140, 257 
**OBCA** ss. 22, 53-57, 102, 140-144, 266

(ii) Characteristics of Shares

A. General

Required Reading: VanDuzer pp. 251-267

Statutory References: 
**CBCA** ss. 24, 42, 43, 107, 115, 118, 134, 176, 183(4), 188(4), 189(7), 211(3), 241 
**OBCA** ss. 22, 38, 95, 120, 127, 130, 170, 176(3), 181(3), 184(5), (6), 193(1), 248

B. No Par Value

Statutory References: 
**CBCA** ss. 24(1), (2) 
**OBCA** ss. 22(1), (2)

C. Series

Statutory References: 
**CBCA** ss. 24(4), 27 
**OBCA** ss. 22(4)-(7), 25

D. Pre-emptive Rights

Required Reading: Casebook pp. 581-584

Statutory References: 
**CBCA** s. 28 
**OBCA** s. 26
(iii) Issuing and Paying for Shares and the Stated Capital Account

Required Reading: VanDuzer pp. 267-271

Statutory References: CBCA ss. 25, 26, 30, 38, 41, 115(3), 118, 123(4)
OBCA ss. 23, 24, 28, 34, 37, 127(3), 130, 135(4)

(iv) Redemption and Repurchase of Shares

Required Reading: VanDuzer pp. 272-276

Statutory References: CBCA ss. 30-40
OBCA ss. 28-36

IV - MANAGEMENT AND CONTROL OF THE CORPORATION: THE BASIC LEGAL FRAMEWORK

(a) Introduction – Shareholders, Directors and Officers

Required Reading: VanDuzer pp. 279-282

Statutory References: CBCA ss. 102, 115, 121
OBCA ss. 115, 127, 133

(b) How Shareholders Exercise Power – Shareholder Meetings and Resolutions

Annual and Special Meetings
Calling Meetings
Notice of Meetings
Proxies and Proxy Solicitation
Shareholder Proposals
Quorum
Voting
Access to Information - Auditors and Financial Disclosure
Signed Resolutions

Required Reading: Casebook pp. 624-625, 632-639, 643-645, 655-657, 674-679
VanDuzer pp. 283-300

(c) Directors and How They Exercise Power

(i) Introduction – The Power to Manage

Required Reading: Casebook pp. 227-232

Statutory References: CBCA s. 102
                  OBCA s. 115

(ii) Qualifications

Required Reading: VanDuzer pp. 300-302

Statutory References: CBCA ss. 2(1) (definition of “director” and definition of “resident Canadian”), 105, 108(1)(c), 116
                  CBCA Reg. ss. 13, 16
                  OBCA ss. 1(1)(definition of “director” and definition of “resident Canadian”), 118, 121(1)(c), 128
                  OBCA Reg. s. 26

(iii) Election and Appointment of Directors

Required Reading: VanDuzer pp. 302-305

Statutory References: CBCA ss. 106, 108(2), 109, 111, 113, 116
                  OBCA ss. 115, 119, 121, 122, 124, 128

(iv) Number of Directors

Required Reading: VanDuzer pp. 305-306

Statutory References: CBCA ss. 6(1)(e), 102(2)
                  OBCA s. 115(2)
(d) Directors’ Meetings

Required Reading: VanDuzer pp. 306-309

Statutory References: CBCA ss. 114, 115(3)
                        OBCA ss. 126, 127(3)

(e) Officers

(i) General

Required Reading: Casebook pp. 310-311

Statutory References: CBCA ss. 102(1), 104(1)(d), 115, 116, 121, 122
                        OBCA ss. 115(1), 117(1)(d), 127, 128, 133, 134

(ii) Delegation

Required Reading: Casebook pp. 237-238
                        VanDuzer pp. 311-313

Statutory References: CBCA s. 115
                        OBCA s. 127

(f) Remuneration and Indemnification

Required Reading: Casebook pp. 360-366
                        VanDuzer pp. 313-320

Statutory References: CBCA ss. 120(5)(b), 124, 125
                        OBCA ss. 132(5)(b), 136, 137

(g) Shareholders’ Agreements and Unanimous Shareholders’ Agreements

Required Reading: Casebook pp. 722-738
                        VanDuzer pp. 320-330

Statutory References: CBCA ss. 49(8), 146, 247
                        OBCA ss. 56(8), 108, 253
V - CORPORATE CHANGES

(a) Amendment of Articles, By-laws and Changes to Stated Capital

Required Reading: Casebook pp. 185-186
VanDuzer pp. 334-342

Statutory References: **CBCA** ss. 38, 39, 43, 103, 173-80, 190, 241
**OBCA** ss. 34, 35, 38, 116, 168-173, 185, 248

(b) Continuation under the Law of Another Jurisdiction

Required Reading: Casebook pp. 172-173
VanDuzer pp. 342-346

Statutory References: **CBCA** ss. 187-8
Form 11
**OBCA** ss. 180-1
Forms 6, 7

(c) Amalgamation

Required Reading: VanDuzer pp. 346-354

Statutory References: **CBCA** ss. 181-186
Form 9
**OBCA** ss. 174-179
Form 4

(d) Arrangements and Reorganizations

Required Reading: VanDuzer pp. 354-358

Statutory References: **CBCA** ss. 191-192
Forms 14, 14.1
**OBCA** ss. 182, 183, 186
Forms 8, 9

(e) Sales of All of Substantially All of a Corporation’s Assets

Required Reading: VanDuzer pp. 358-360

Statutory References: **CBCA** s. 189(3)-(9)
**OBCA** s. 184(3)-(9)
(f) Going Private Transactions

Required Reading: VanDuzer pp. 360-363

Statutory References: CBCA ss. 2(1) (definition of “squeeze-out”), 193-194
                     OBCA s. 190

(g) Termination of the Corporation’s Existence

Required Reading: VanDuzer pp. 364-369

Statutory References: CBCA ss. 207-228
                      OBCA ss. 191-244

VI - DIRECTORS’ and OFFICERS’ DUTIES

(a) Fiduciary Duties

(i) Introduction

Required Reading: Casebook pp. 367-379, 421-429
                  VanDuzer pp. 373-380

Statutory References: CBCA ss. 122(1)(a), (2) and (3), 123(4), (5)
                      OBCA ss. 134(1)(a), (2) and (3), 135(4)

(ii) Conflicts of Interest - Transactions with the Corporation

Required Reading: Casebook pp. 379-384
                  VanDuzer pp. 380-388

Statutory References: CBCA ss. 120, 122(3)
                      OBCA ss. 132, 134(3)

(iii) Corporate Opportunities

Required Reading: Casebook pp. 384-406
                  VanDuzer pp. 388-398

Statutory References: CBCA s. 122(1)(a)
                      OBCA s. 134(1)(a)
(iv) Competition

Application:

Required Reading:

Casebook pp. 412-418
VanDuzer pp. 398-400

Statutory References:

CBCA s. 122(1)(a)
OBCA s. 134(1)(a)

(v) Takeover Bids

Application:

Required Reading:

Casebook pp. 430-432, 448-460, 476-492
VanDuzer pp. 400-409

Statutory References:

CBCA s. 122(1)(a)
OBCA s. 134(1)(a)

(vi) Other Breaches of Fiduciary Duty

Application:

Required Reading:

VanDuzer pp. 409-410

(vii) Reliance on Management and Others

Application:

Required Reading:

VanDuzer pp. 410-411

Statutory References:

CBCA s. 123(4), (5)
OBCA s. 135(4)

(viii) Sanction by Shareholders of Fiduciary Breach

Application:

Required Reading:

Casebook pp. 509-521
VanDuzer pp. 411-412

Statutory References:

CBCA ss. 120(7.1), 122(3), 239, 241, 242(1)
OBCA ss. 132(5.2), (8), 134(3), 246, 248, 249(1)

(b) Duty of Care

(i) Common Law

Application:

Required Reading:

Casebook pp. 291-298

Statutory References:

NONE
(ii) Statutory Reform

Required Reading: Casebook pp. 299-307, 324-338, 341-344
VanDuzer pp. 413-422

Statutory References:

CBCA ss. 122(1)(b), 123(4), (5)
OBCA ss. 134(1)(b), 135(4)

(c) Statutory Duties and Oppression

Required Reading: Casebook pp. 344-354
VanDuzer pp. 422-427

Statutory References:

CBCA ss. 118, 119, 122(2), 238, 241, 242
OBCA ss. 130, 131, 134(2), 245, 248, 249

(d) Liability of Corporate Managers for Torts

Required Reading: VanDuzer pp. 428-435

Statutory References: NONE

VII – SHAREHOLDERS’ REMEDIES

(a) Introduction

Required Reading: Casebook pp. 745-747
VanDuzer pp. 440-442

Statutory References: NONE

(b) Personal Action

Required Reading: Casebook pp. 772-780, 785-794
VanDuzer pp. 442-444

Statutory References: NONE
(c) Derivative Actions on Behalf of the Corporation

Required Reading:  
Casebook pp. 747-756, 769-772  
VanDuzer pp. 444-451

Statutory References:  
CBCA ss. 238-240, 242  
OBCA ss. 245-247, 249

(d) Oppression

Required Reading:  
Casebook pp. 797-830, 833-851  
VanDuzer pp. 451-497

Statutory References:  
CBCA ss. 238, 241-242  
OBCA ss. 245, 248-249

(e) Compliance and Restraining Orders

Required Reading:  
Casebook pp. 867-869  
VanDuzer pp. 497-498

Statutory References:  
CBCA s. 247  
OBCA s. 253

(f) Rectification of Corporate Records

Required Reading:  
Casebook p. 869  
VanDuzer pp. 498-499

Statutory References:  
CBCA ss. 243, 257  
OBCA ss. 250, 266

(g) Investigations

Required Reading:  
Casebook pp. 869-874  
VanDuzer pp. 499-500

Statutory References:  
CBCA ss. 229-37  
OBCA ss. 161-67
(h) Corporate Purchase of Shares of Dissenting Shareholder (dissent and appraisal)

Required Reading: Casebook pp. 862-866
VanDuzer pp. 501-505

Statutory References: CBCA s. 190
OBCA s. 185

(i) Winding Up and Dissolution

Required Reading: Casebook pp. 874-878
VanDuzer pp. 506-508

Statutory References: CBCA ss. 211, 213, 214, 215
OBCA ss. 192-205, 207, 208, 229
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Online Resources

The majority of case law and legislative resources needed by NCA students are available on CanLII, the free legal information resource funded by the Federation of Law Societies of Canada ([www.canlii.org](http://www.canlii.org)). That includes all decisions of the Supreme Court of Canada, and all federal, provincial, territorial and appellate courts.

Your registration fee also includes free access to the Quicklaw resources of Lexis Nexis. Your ID and password will be arranged and emailed to your email address on file a few weeks after the end of the registration session.

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