Syllabus for Business Associations

1. Outline and comparison of different types of business associations
   - sole proprietorship
   - partnership
   - registered company

2. Partnerships
   - nature of partnerships – their legal status, powers and characteristics
   - creation of partnerships
   - rights and duties of the partners inter se – rights and obligations arising in contract; fiduciary duties of partners
   - rights and duties of the partners vis-a-vis third parties – liabilities of partners to third parties in contract and tort; authority of partners to bind the partnership in transactions with third parties
   - introduction to dissolution

3. Formation of a company
   - incorporation and registration
   - problems relating to incorporation
   - types of companies

4. Nature of a company
   - separate corporate personality
   - limited liability doctrine – liability of members limited by shares or limited by guarantee
   - doctrines of piercing or lifting the corporate veil

5. Corporate constitution and authority: memorandum and articles of association
   - contractual effect of the memorandum and articles
   - enforcement of the memorandum and articles
   - ability of companies to alter the memorandum and articles, and restrictions under the general law and the Companies Ordinance; enforceability of shareholder agreements to alter the articles
   - corporate liability
   - corporate capacity

6. Membership
   - subscribers to the memorandum
   - registration of members
   - membership in companies with share capital: issues and transfers of shares
   - rights of members
7. Management and control
- the board of directors
- the members’ general meeting
- powers conferred by the Companies Ordinance
- powers conferred by the articles of association
- authority of directors to bind the company vis-a-vis third parties and agent authority
  and indoor management rule
- scope of control of the board by the members in general meeting

8. Duties of directors
- directors as fiduciaries
- acting bona fide in the interests of the company
- exercising powers for proper purposes
- avoiding conflicts of interest – conflict rule, profit rule, misappropriation rule
- acting with due care, skill and diligence – duties in equity and under the common law
- forgiveness and enforcement
- requirements of the Companies Ordinance

9. Shareholders and shareholder rights and remedies: shareholders control over the running of the company: memorandum and articles
- proper plaintiff and irregularity principles – rule in Foss v Harbottle
- derivative actions on behalf of the company – fraud on the company exception to the proper plaintiff principle; the statutory derivative action
- members’ personal rights of action under the general law; equitable restrictions on the powers of the majority in general meeting
- statutory remedy in relation to unfairly prejudicial conduct
- winding up on the just and equitable grounds
- protection of class rights under the company's constitution and under the Companies Ordinance
- statutory injunctions

10. Corporate Insolvency and Liquidation
- Types of winding up: compulsory winding up by the court and members’ or creditors’ voluntary winding up
- Insolvency and other grounds for winding up
- Effect of a winding up order
- Process of winding up
- Functions and powers of the liquidator
- Assets available for distribution; re-opening of antecedent transactions
- Distributions and priorities
- Fraudulent/Unfair Preferences
- Dissolution
Recommended Reading List for Business Associations

Hong Kong Texts

Lo S and Qu C, Law of Companies in Hong Kong, 2nd ed, Sweet & Maxwell, 2015

Sihombing Judith, Sihombing's Hong Kong company law: commentary on Caps 622 & 32, Wolters Kluwer Hong Kong Limited.

General Texts


Leung Alice et al, The (New) Companies Ordinance (Cap 622): Commentary and Annotations, (Sweet & Maxwell, 2014)

Morse G, Partnership Law, Oxford University Press, 2016

Sealy Len and Worthington Sarah, Sealy & Worthington’s Cases and Materials in Company Law, Sweet & Maxwell, 10th ed, 2013

Sources

Partnership Ordinance (Cap.38)
Companies Ordinance (Cap.622) & Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)
Bankruptcy Ordinance (Cap. 6)
Hong Kong cases