

# LEARNING UNIT 5 – COMPANIES ACT NO 71 OF 2008



Duration: 5 hours

Your time should be divided between two aspects:

- **Obtaining the required knowledge**  
This entails working through this learning unit. It is important to note that a significant part of this learning unit has been covered in your undergraduate studies. Since The Auditing Profession Act (APA) was covered in your undergraduate studies (it is assumed knowledge), we allow some time in this LU to refresh your memory and work through some notes and questions to assist in honing your critical thinking and decision-making skills. If the time allowed is not enough, you will have to refresh your memory regarding sections you already covered in your prior studies **in your own time**.
- **Application of knowledge**  
This entails the completion of the self-assessment questions included in this learning unit. After completion of the learning unit, you will have the opportunity to test your knowledge by completing some questions which will comprise of integrated activities covering other learning units, these integrated questions will be included in your additional resources folder.

The following time allocation is recommended:

<b>APA</b>		<b>Minutes</b>
5.1	Introduction	1
5.2	Learning Outcome and Assessment Criteria	1
5.3	Learning Assumed to be in Place	2
5.4	Examination Technique	18
5.5	Self-assessment question 5.1	28
5.6	Announcements	3
5.7	Lectures	240
	<b>Total</b>	<b>293</b>



## 5.1 INTRODUCTION

As a future accountant and auditor, it is of the utmost importance for you to have a sound knowledge of the legal environment you will be operating in. Your knowledge of the Companies Act will therefore be enhanced and tested in this Learning Unit.

## 5.2 LEARNING OUTCOME AND ASSESSMENT CRITERIA

The content of this learning unit is based on the following learning outcome and assessment criteria:

Learning outcome	Assessment criteria
Exercise Companies Act, corporate governance and statutory requirements in practical simulations.	Discuss and apply the Companies Act corporate governance and statutory requirements in given case studies.

## 5.3 LEARNING ASSUMED TO BE IN PLACE

The Companies Act includes critical sections for understanding and applying corporate governance principles. Sections 2 and 3 define relationships, such as consanguinity and affinity, to prevent circumvention of the Act. Section 4 introduces the solvency and liquidity test, vital for validating transactions. Section 8 categorizes companies into non-profit and for-profit, each with unique requirements. Incorporation (sections 15-16) involves the Memorandum of Incorporation (MOI), foundational for company governance, while sections 36-48 cover capital structuring and share issuance. Governance aspects, including director conduct (sections 75-77) and board responsibilities (sections 66-72), ensure accountability. Transparency is addressed via requirements for records, financial statements (sections 24-30), and audit committee duties (section 94). The Act also emphasizes remedies for reckless trading, whistleblower protection (section 159), and enforcement mechanisms, highlighting its role in fostering ethical and transparent corporate practices.

**Please refer to your undergraduate studies for more information.**

The companies act no 71 of 2008 was covered as part of your undergraduate studies. You must revise the content below if you are not familiar with the content.

SAICA Student Handbook 2024/2025, volume 2B:

- Companies Act no 71 of 2008 and Companies Regulations



## COMMENT

We recommend that you study directly from the SAICA Student Handbook, volume 2B, and flag all the important sections. If the sections come up in a test or examination, they will be easy to find.

The SAICA syllabus provides the overall framework that you should benchmark your knowledge against, as your ultimate aim is to qualify as a CA(SA).

The topics listed here are important statutory requirements that candidates need to know from an audit perspective. Professional accountants may hold statutory positions, such as judicial manager, liquidator or accounting officer. Therefore, candidates must be aware of the relevant legal requirements and be able to identify these readily from texts brought into the open book examination. Please refer to both the SAICA Examinable Pronouncements as well as the Competency Framework and note the level of knowledge required for each section that is examinable in the 2025 ITC.

## 5.4 EXAMINATION TECHNIQUE

As you know, the examination will be conducted under limited open-book conditions. However, you should bear in mind that you will not be able to merely look up the answers to questions in the examination but will have to integrate and apply your knowledge.

You will earn most of the marks for applying your knowledge. To build a logical argument in any question, you need to start with basic theory and definitions, whether you recall them from memory or access them from a textbook. Use the information in the prescribed textbook as building blocks in formulating an applied answer to a given scenario.

Students are often unable to identify all the related Companies Act and Companies Regulations sections relevant to a specific scenario. There is skill involved in identifying the key issues in a scenario involving the Companies Act and Companies Regulations. To develop this skill, you need to practice answering questions. It is essential to only review the solutions after attempting the questions independently to ensure skill development.

Many students do not work through enough questions in auditing. Remember, you must train yourself to be "test-fit" and "examination-fit" by working through enough questions during the year.

### Proposed Guidance for Solving Problems

It is your responsibility to study the Act and be familiar with its important aspects. The textbook provides good guidance, and important aspects are emphasized in this learning unit. The Act is part of the documents allowed during tests and examinations under the open-book policy.

Your knowledge of the relevant legislation may be tested in one or more of the following ways:

#### 1. Evaluating Transactions or Schemes

A question may provide a scenario and require you to evaluate the legality of any transactions or schemes. You may also need to advise on alternatives and further requirements.

#### 2. Audit Procedures

A question may describe certain transactions or schemes and require you to explain the audit procedures needed to obtain sufficient and appropriate audit evidence.

### Approach to Questions

#### A. Questions Requiring Advice or Evaluation

1. Identify all transactions/events.
2. Determine the relevant requirements from the Act, which may relate to:
  - The powers of the entity (e.g., memorandum, sections of the Act).
  - Specific authorization required (e.g., special or ordinary resolution).
  - Special preconditions (e.g., liquidity and solvency).
3. Reproduce the theory applicable to each transaction/event.
4. Apply the theory to the facts given in the question.
5. Conclude on the legality of each transaction/event.
6. Make recommendations or discuss alternatives, if required.

Pay attention to the wording of requirements. For example:  
- If asked about concerns, focus on non-compliance.

- Begin sentences with "It is a concern that..." when addressing concerns.
- If both compliance and non-compliance are required, address both aspects.

### **B. Questions Requiring Audit Procedures**

- Identify all transactions/events.
- Determine relevant requirements of the Act for each transaction/event.
- Visualize and note the accounting journal entry underlying each transaction described.
- Identify sources of audit evidence.
- Develop audit procedures based on assertions such as occurrence, accuracy, completeness, cut-off, classification, and disclosure.

Sources of evidence may include:

- Memorandum of incorporation.
- Notices of meetings and minutes (directors' or members' meetings).
- Statutory registers.
- Notes to financial statements.
- Deposit slips and general ledger accounts.

The term "inspect" is crucial when formulating procedures involving statutory matters.

### **Integration with Other Topics**

The Companies Act may be integrated with the rest of your auditing syllabus, statutory, regulatory, and ethical matters like the King IV Report on Corporate Governance. Certain sections of the Companies Act directly link to King IV; therefore, study them in context.

Remember to study all the relevant sections directly from the Act for comprehensive understanding.

## 5.5 Self-assessment Question

### Question 5.1

9 marks

Activity	Estimated Time		
	Reading and Writing	Marking and review	Total
Digi Elect Ltd	18 minutes	10 minutes	28 minutes

*(This question has been adapted from a previous CTA Test)*

You are an audit manager at Excelsior Incorporated (Excelsior), a medium-sized registered firm of auditors. Your firm has been approached to be appointed as the auditors for Digi Elect Ltd for the year financial year ending 31 December 2022. The following information has been provided to assist you in your decision-making.

#### Background information

Digi Elect Ltd (Digi Elect) is the leading supplier of alternative green energy products in Southern Africa. Digi Elect is focused on providing energy for both homes and businesses in Southern Africa. Digi Elect was established in 2007, and their head office and warehouse are located in Midrand, Gauteng, South Africa. Digi Elect is listed on the Johannesburg Stock Exchange Ltd (JSE). Digi Elect focus on three core energy solutions namely, Grid-Tied Energy, Back-up Energy and Off-Grid Energy. A Grid-Tied Energy solution needs an electrical connection from Eskom to function. Instead of offering backup power only, the main advantage of such a system is to lower electricity costs. With a Back-up Energy solution, there is a variety of solutions like battery and generator-based backup systems, including "plug & play" (Uninterrupted Power Supply - UPS), enterprise, industrial, and farming, to fit different applications and price ranges. The aim is to provide continual energy in the event of loadshedding.

An Off-Grid Energy solution is fully independent from any energy requirements from Eskom. Off-Grid power supplies are less harmful to the environment and more affordable than power from Eskom. The cost and reliability of power generated by photovoltaic solar panels or wind turbines are significantly lower. There are numerous ways to store this energy, including using modern batteries or electrically powered by hydropower. With rising electrical costs, it is estimated that customers will receive a pay-back period of between five to seven years with the installation of an Off-Grid energy solution.

#### Shares issue in terms of an Initial Public Offering

Digi Elect has a current Broad-Based Black Economic Empowerment (BBBEE) rating of level 4. In order to procure more government contracts for the installation of Digi Elect's products in the public sector, Digi Elect issued 80 000 ordinary shares at R20 each as part of an Initial Public Offering (IPO) on 1 April 2022. All 80 000 shares were taken by the IPO.

These shares were issued to the designated ethic groups. This share issue along with other initiatives was initiated to try and improve Digi Elect's BBBEE rating to level 2 and to increase the company's ability to generate more income from government contracts.

Digi Elect's 's Share Capital before the IPO was as follows:

	No of shares
Authorised share capital	200 000

REQUIRED	Marks
<p><b>(a) With reference to the shares issue in terms of an Initial Public Offering:</b></p> <p>Formulate the substantive audit procedures that should be performed to obtain sufficient and appropriate audit evidence regarding the shares issued for the financial year ending 31 December 2022.</p> <p><b>Note: You should not discuss any general audit procedures.</b></p>	9

**(a) With reference to the share issue, formulate the substantive audit procedures that should be performed to obtain sufficient and appropriate audit evidence. You should not discuss any general audit procedures.**

1. Inspect the minutes of the board meeting where the decision was taken to issue these shares and note the particulars of the share issue authorised. And by discussion with the directors, confirm that no other share issues were made during the year. (2)
2. Inspect the Memorandum of Incorporation to establish whether Digi Elect had the necessary number of authorised shares (200 000) available to enable the issue. (1)
3. Should DigiElect Ltd not have had sufficient authorised unissued shares available:
  - Inspect the Memorandum of Incorporation to ascertain whether any restrictions are imposed on the board's authority to increase the number of authorised shares. (1)
  - If no restrictions are imposed, inspect the minutes of the board meeting, held within 60 business days of the date of the share issue, for the approval to increase the number of the company's authorised shares. (1)
  - Alternatively, inspect the special resolution passed at a shareholders meeting, held within 60 business days of the share issue; ensuring that at least 75% of the voting rights exercised at the meeting voted in favour of the resolution to increase the number of authorised ordinary shares. (1)
4. Inspect the IPO which confirms that an offer was made to individuals from designated groups to take up the additional shares, and if any issue took place contrary to this: (1)
  - Verify, by inspection, that this was permitted by the Memorandum of Incorporation. (1)
5. By inspection of the securities register:
  - Agree the details to the share capital account in the general ledger and statement of changes in equity. (1)
  - Verify that the addition of the new shareholders and any changes to existing shareholdings agree with the minutes. (1)
6. By inspection of the bank account and bank statement verify that the amount received for the share issue agrees to the details per the directors minutes and the securities register (80 000 shares x R20 per share = R1 600 000). (1)
7. Reperform the calculations to verify that the consideration received for the shares is in accordance with the issue price as authorised in the board minutes (i.e. R20 per share). (1)

Available 11  
Maximum 9



## EXAM TECHNIQUES IN ANSWERING THIS QUESTION

### Part d: Substantive procedures – Companies Act

This was a straightforward section, but many students struggled with formulating substantive audit procedures.

Remember that formulating substantive procedures is not difficult. Think of **HOW, WHAT, WHY?**

**HOW** do you intend executing the procedure?

**WHAT** is your source document?

**WHY** are you doing this procedure?

Exam techniques Tip: When you must formulate substantive audit procedures in relation to the companies act, the most substantive procedures will always begin with **Inspect**.

### 5.6 Announcements

Please refer to the **Additional Resources** folder for Learning Unit 5 for some additional resources on the content of this Learning Unit.

### 5.7 Lectures

Lectures will be held during the year. Additional learning material and questions will also be loaded under the **Additional Resources** folder. Refer to the **Announcements** for additional information on lectures.