



# Syllabus

## Corporate Law

(Revised June 20, 2010)

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.



## Corporate Law

### **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.

### **METHOD OF EVALUATION:**

3 hour examination 100%

### **REQUIRED MATERIALS:**

A. D. Harris, R. J. Daniels, E. M. Iacobucci, I. B. Lee, J. G. MacIntosh, P. Puri, and J. S. Zeigel, *CASES, MATERIALS AND NOTES ON PARTNERSHIPS AND CANADIAN BUSINESS CORPORATIONS*, 4th ed. (Toronto: Carswell, 2004) (referred to as "Casebook" in syllabus) \*

J. A. VanDuzer, *THE LAW OF PARTNERSHIPS AND CORPORATIONS* 3d ed. (Toronto: Irwin Law, 2009) (referred to as "VanDuzer" in syllabus)\*

*Canada Business Corporations Act & Commentary* (Toronto: LexisNexis, latest edition)

*Ontario Business Corporations Act & Commentary* (Toronto: LexisNexis, latest edition)[contains Ontario partnerships legislation]\*\*

**\*Please note that the corporate and partnership legislation has been amended in some ways since the publication of the Casebook and, to a lesser extent, 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. The most significant amendments that are not reflected in the Casebook are the amendments to the Ontario Business Corporations Act that came into force in August 2007 and the introduction of the new Business Corporations Act in British Columbia in 2004. These amendments are reflected in VanDuzer. The sections of the Ontario statute that have been amended are indicated in the syllabus that follows.**

**\*\*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 *Canada Business Corporations Act & Commentary*.**

### **OTHER RESOURCES:**

W. Gray, *CANADA BUSINESS CORPORATIONS ACT* (Toronto: Carswell, first published 1994, now looseleaf) KE 1369 .A3127 G73 1994 (see also subsequent years)

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)

K. P. McGuinness, *THE LAW AND PRACTICE OF CANADIAN BUSINESS CORPORATIONS*, 2d ed. (Toronto: Butterworths, 2007)



## 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. 1-24



## II - PARTNERSHIP

### (a) What is a Partnership?

Required Reading:	Casebook pp. 4-24 VanDuzer pp. 28-49
Statutory References:	<i>Partnerships Act</i> , R.S.O. 1990, c. P.5 ("P.A."), ss. 1-5, 45 <i>Business Names Act</i> , 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. 24-26 VanDuzer pp. 49-54
Statutory References:	P.A. ss. 20-31

#### (ii) Relations With Third Parties

Required Reading:	Casebook pp. 26-34 VanDuzer pp. 54-63
Statutory References:	P.A. ss. 6-19

### (c) Dissolution of the Partnership

Required Reading:	VanDuzer pp. 66-68
Statutory References:	P.A. ss. 26, 32-44

### (d) Partnership Agreements

Required Reading:	VanDuzer pp. 68-76
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### (e) Other Relationships

#### (i) Joint Ventures

Required Reading:	Casebook pp. 34-40 VanDuzer pp. 76-79
Statutory References:	P.A. ss. 2, 3, 32(b)

#### (ii) Limited Partnerships

Required Reading:	Casebook pp. 41-51 VanDuzer pp. 79-86
Statutory References:	<i>Limited Partnerships Act</i> , R.S.O. 1990, c. L.16, ss. 2-5, 8-12, 14, 17, 22, 24-6, 32

#### (iii) Limited Liability Partnerships

Required Reading:	Casebook pp. 51-53 VanDuzer pp. 63-66
Statutory References:	P.A. ss. 10, 44.1-44.4



### III- THE CORPORATION

#### (a) Introduction

##### (i) General

Required Reading: VanDuzer pp. 90-98

##### (ii) Constitutional Matters

*Division of Powers*  
*The Charter*

Required Reading: Casebook pp. 62-64, 160-162  
VanDuzer pp. 98-112

Statutory References: P.A. ss. 6-19

##### (iii) Incorporation Process

Required Reading: VanDuzer pp. 112-116

Statutory References: **CBCA** ss. 5, 6, 8, 9, 15  
*Interpretation Act*, R.S.C. 1985, c. I-21, s. 20  
**OBCA** ss. 4, 5, 6, 7, 15  
(Note 2007 amendments to ss. 4, 5)  
*Interpretation Act*, R.S.O. 1990, c. I.11, s. 27

##### (iv) Function of Corporate Law

Required Reading: VanDuzer pp. 116-125

##### (v) Corporate Law and Securities Law

Required Reading: VanDuzer pp. 464-473

#### (b) Nature of the Corporation

##### (i) Separate Existence and Limited Liability

Required Reading: Casebook pp. 68-95  
VanDuzer pp. 125-129

Statutory References: **CBCA** ss. 6, 10, 15, 45(1), 212  
Forms 1, 2, 3, 6  
**OBCA** ss. 10, 92(1)  
*Business Names Act*, ss. 1, 2, 6, 7, 10

##### (ii) Disregard of Corporate Legal Personality

Required Reading: Casebook pp. 110-120, 123-132, 138-145  
VanDuzer pp. 129-139

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



**(c) Incorporation**

(i) Considerations and Process

- Required Reading: Casebook pp. 163-173  
VanDuzer pp. 146-147; 161-185
- Statutory References: **CBCA** ss. 2(6), 2(7), 2(8), 102(2), 114(8), 117(1),  
126 (1), 139(4), 142(1), 149(2), 160, 174(1), 263,  
Form 22  
**OBCA** ss. 1(6), 1(1)(definition of “number name”),  
101  
(4), 104(1), 111, 115(2), 126(12)  
*Business Names Act*, ss. 2(1), (6), 7  
*Corporations Information Act*, R.S.O. 1990, c. C.39,  
ss. 2, 3

(ii) Corporate Names

- Required Reading: Casebook pp. 173-175  
VanDuzer pp. 148-161
- Statutory References: **CBCA** ss. 6(1)(a), 10-13 Reg. 17-34  
**OBCA** ss. 8-12; Reg. 1-22  
*Business Names Act*, s. 6

(iii) Pre-incorporation Contracts

- Required Reading: Casebook pp. 180-181, 195-206  
VanDuzer pp. 186-192
- 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. 147-159  
VanDuzer pp. 195-207
- Statutory References: None

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

- Required Readings: Casebook pp. 249-262  
VanDuzer pp. 207-221
- Statutory References: **CBCA** ss. 16(3), 17-8  
**OBCA** ss. 17(3), 18-9  
(Note 2007 amendments to s. 19(f))



**(e) Shares and Shareholders**

**(i) Introduction to Shares**

- Required Reading: Casebook pp. 696-713  
VanDuzer pp. 225-228
- Statutory References: **CBCA** ss. 24, 25, 48, 49, 50, 51, 55, 60, 257  
**OBCA** ss. 22, 23, 53, 54, 56, 67, 143, 266  
(Note 2007 amendments to ss. 24(3), 67 and 2006 amendments to ss. 53, 54, 56, 67)

**(ii) Characteristics of Shares**

**A. General**

- Required Reading: VanDuzer pp. 228-244
- Statutory References: **CBCA** ss. 24(3), (4), 42, 43, 115(3)(d), 118  
**OBCA** ss. 22(3), (4), 38, 127(3)(d), 130  
(Note 2007 amendments to ss. 38(2), 130(2)(a))

**B. No Par Value**

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

**C. Series**

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

**D. Pre-emptive Rights**

- Required Reading: Casebook pp. 687-690
- Statutory References: **CBCA** s. 28  
**OBCA** s. 26

**(iii) Issuing and Paying for Shares and the Stated Capital Account**

- Required Reading: VanDuzer pp. 244-247
- Statutory References: **CBCA** ss. 25, 26, 30, 41, 118(1), (6), 123(4)  
**OBCA** ss. 23, 24, 37, 130(1), (6), 135(4)  
(Note 2007 amendments to ss. 24(3), 135(4))

**(iv) Redemption and Repurchase of Shares**

- Required Reading: VanDuzer pp. 247-251
- Statutory References: **CBCA** ss. 30-40  
**OBCA** ss. 28-36  
(Note 2007 amendments to ss. 29, 31, 32, 36)



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

### (a) Introduction - Shareholders, Directors and Officers

- Required Reading: Casebook p. 207  
VanDuzer pp. 254-257
- Statutory References: **CBCA** ss. 103, 108, 173  
**OBCA** ss. 115, 119, 121, 122, 168

### (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. 747, 755-770, 772-779, 798-803  
VanDuzer 258-273
- Statutory References: **CBCA** ss. 20-22, 132-44, 147-158, 160,  
Reg. ss. 32-43, Form 22 (Annual Return)  
**OBCA** ss. 93-106, 109-114, 139, 140, 144-6,  
154-7, 159, Reg. ss. 27-37  
(Note 2007 amendments to ss. 99, 109, 112, 145,  
146, 154)

### (c) Directors and How They Exercise Power

#### (i) Introduction - The Power to Manage

- Readings: Casebook pp. 230-235
- Statutory References: **CBCA** ss. 103, 108, 173, 190, 211  
**OBCA** ss. 115, 119, 121, 122, 168, 185, 207, 208  
(Note 2007 amendments to s. 185)

#### (ii) Qualifications

- Readings: VanDuzer pp. 273-275
- Statutory References: **CBCA** ss. 2(1) (definition of "director"), 2(5)  
(definition of "resident Canadian"), 102(2), 105,  
108(1)(c), 116; Reg. s. 11  
**OBCA** ss. 1(1) (definition of "director"), (definition  
of "resident Canadian"), 118, 121(1)(c), 143; (Note  
2007 amendments to s. 118)  
Reg. s. 26

#### (iii) Election and Appointment of Directors

- Readings: VanDuzer pp. 275-277
- Statutory References: **CBCA** ss. 106, 107, 108(2), 111(1), 116, 132(1),  
133(a), (b), 135(5), 143-5  
**OBCA** ss. 93, 94, 96(5), 100, 101, 104-7, 119,  
120, 124, 128



(iv) Number of Directors

Readings: VanDuzer pp. 277

Statutory References: **CBCA** ss. 6(1)(e), 20(1)(c), 21(1), 102(2), 106(7), 107(a), 109(3), 111-4, 213(1)(b)  
**OBCA** ss. 5(2), 120, 124-6, 128, 140, 145  
(Note 2007 amendments to ss. 6, 145)

(d) **Directors' Meetings**

Required Reading: VanDuzer pp. 277-280

Statutory References: **CBCA** ss. 6(3), 18, 103, 104, 114, 117, 120(2), 123(1), (2), (3)  
**OBCA** ss. 5(4), 19, 116, 117, 126, 129, 132(2), 135  
(Note 2007 amendments to ss. 19(f), 126, 132, 135)

(e) **Officers**

(i) General

Required Reading: VanDuzer pp. 280-282

Statutory References: **CBCA** ss. 16(1), 102(1), 104(1)(d), 115(1), 116, 121  
**OBCA** ss. 17(1), 115, 117(d), 127, 128, 133  
(Note 2007 amendments to s. 127)

(ii) Delegation

Required Reading: Casebook pp. 239-241  
VanDuzer pp. 282-284

Statutory References: **CBCA** s. 115  
**OBCA** s. 127

(f) **Remuneration and Indemnification**

Required Reading: Casebook pp. 368-373  
VanDuzer pp. 284-290

Statutory References: **CBCA** ss. 120(5)(b), 124(1)-(5), 125  
**OBCA** ss. 132(5)(b), 136, 137  
(Note 2007 amendments to ss. 132, 136)

(g) **Shareholders' Agreements and Unanimous Shareholders' Agreements**

Required Reading: Casebook pp. 835-850  
VanDuzer pp. 290-299

Statutory References: **CBCA** s. 146  
**OBCA** s. 108  
(Note 2007 amendments to s. 108)



## V - CORPORATE CHANGES

- (a) **Amendment of Articles, By-laws and Changes to Stated Capital**  
Required Reading: Casebook pp. 179-180  
VanDuzer pp. 302-309  
Statutory References: **CBCA** ss. 173-80, 190, 241  
**OBCA** ss. 168-72, 185, 248  
(Note 2007 amendments to s. 185)
- (b) **Continuation under the Law of Another Jurisdiction**  
Required Reading: Casebook pp. 167-168  
VanDuzer pp. 309-313  
Statutory References: **CBCA** ss. 187-8, 190(1)(d), 190(7), 190(8),  
268(2)(b)  
**OBCA** ss. 180-1
- (c) **Amalgamation**  
Required Reading: VanDuzer pp. 313-321  
Statutory References: **CBCA** ss. 181-6  
**OBCA** ss. 174-9
- (d) **Arrangements and Reorganizations**  
Required Reading: VanDuzer pp. 321-324  
Statutory References: **CBCA** ss. 191-2  
**OBCA** ss. 182-3, 186
- (e) **Sales of Assets or Shares**  
Required Reading: VanDuzer p. 324-325  
Statutory References: **CBCA** s. 183  
**OBCA** s. 176
- (f) **Going Private Transactions**  
Required Reading: VanDuzer pp. 325-329  
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. 329-334  
Statutory References: **CBCA** ss. 207-228  
**OBCA** ss. 191-204



## VI - DIRECTORS' AND OFFICERS' DUTIES

### (a) Fiduciary Duties

#### (i) Introduction

- Required Reading: Casebook pp. 375-376  
VanDuzer pp. 338-345
- Statutory References: **CBCA** ss. 102(1), 121, 122(1)(a), (2) and (3),  
123(4)  
**OBCA** ss. 115, 133, 134(1)(a), 135(4)  
(Note 2007 amendments to ss. 134, 135)

#### (ii) Conflicts of Interest - Transactions with the Corporation

- Required Reading: Casebook pp. 376-386  
VanDuzer pp. 345-352
- Statutory References: **CBCA** ss. 44, 120, 125, 241  
**OBCA** ss. 20, 132, 134, 137  
(Note 2007 amendments to s. 134)

#### (iii) Corporate Opportunities

- Required Reading: Casebook pp. 387-400, 410-416, 419-425  
VanDuzer pp. 352-361
- Statutory References: **CBCA** s. 122(1)(a)  
**OBCA** s. 134(1)(a)  
(Note 2007 amendments to s. 134)

#### (iv) Competition

- Required Reading: Casebook pp. 433-439  
VanDuzer pp. 362-363
- Statutory References: **CBCA** s. 122(1)(a)  
**OBCA** s. 134(1)(a)  
(Note 2007 amendments to s. 134)

#### (v) Takeover Bids

- Required Reading: Casebook pp. 439-441, 442-450, 465-466,  
495-509, 519-526  
VanDuzer 363-371
- Statutory References: **CBCA** s. 122(1)(a)  
**OBCA** s. 134(1)(a)  
(Note 2007 amendments to s. 134)

#### (vi) Other Breaches of Fiduciary Duty

- Required Reading: VanDuzer pp. 371-373

#### (vii) Reliance on Management and Others

- Required Reading: VanDuzer p. 373
- Statutory References: **CBCA** s. 123(4)  
**OBCA** s. 135(4)  
(Note 2007 amendments to s. 134)



(viii) Sanction by Shareholders of Fiduciary Breach

Required Reading: Casebook pp. 526-527  
VanDuzer pp. 373-375

Statutory References: **CBCA** ss. 120(7), 122(3), 124, 239, 241, 242(1)  
**OBCA** ss. 132(7), 134(3), 136, 246, 248, 249  
(Note 2007 amendments to ss. 132, 134, 136, 246)

**(b) Duty of Care**

(i) Common Law

Required Reading: Casebook pp. 301-309

Statutory References: None

(ii) Statutory Reform

Required Reading: Casebook pp. 309-324, 358-368  
VanDuzer pp. 375-384

Statutory References: **CBCA** ss. 118(2), 119, 122(1)(b), 123  
**OBCA** ss. 130, 131, 134(1)(b), 135  
(Note 2007 amendments to ss. 130, 134, 135)

**(c) Statutory Duties and Oppression**

Required Reading: Casebook pp. 341-342  
VanDuzer pp. 384-389

Statutory References: **CBCA** ss. 118, 119, 122(2), 239-242  
**OBCA** ss. 130, 131, 246-249  
(Note 2007 amendments to ss. 130, 246)

**(d) Liability of Corporate Managers for Torts**

Required Reading: Casebook pp. 99-107  
VanDuzer pp. 389-396

**VII - SHAREHOLDERS' REMEDIES**

**(a) Introduction**

Required Reading: Casebook pp. 859-861  
VanDuzer pp. 402-404

Statutory References: None

**(b) Personal Action**

Required Reading: Casebook pp. 885-892, 897-903  
VanDuzer pp. 404-406

Statutory References: None

**(c) Derivative Actions on Behalf of the Corporation**

Required Reading: Casebook pp. 861-867  
VanDuzer pp. 406-412

Statutory References: **CBCA** ss. 238-40, 242  
**OBCA** ss. 244-6, 248  
(Note 2007 amendments to s. 246)



**(d) Oppression**

Required Reading: Casebook pp. 909-935, 948-958  
VanDuzer pp. 412-451  
Statutory References: **CBCA** ss. 239-242  
**OBCA** ss. 246-249  
(Note 2007 amendments to s. 246)

**(e) Compliance and Restraining Orders**

Required Reading: Casebook p. 958-965  
VanDuzer p. 451-452  
Statutory References: **CBCA** s. 247  
**OBCA** s. 253

**(f) Rectification Orders**

Required Reading: Casebook pp. 965-967  
VanDuzer p. 452  
Statutory References: **CBCA** ss. 243, 257  
**OBCA** ss. 250, 266

**(g) Investigations**

Required Reading: Casebook pp. 967-974  
VanDuzer pp. 453-454  
Statutory References: **CBCA** ss. 229-37  
**OBCA** ss. 161-67  
(Note 2007 amendments to s. 161)

**(h) Corporate Purchase of Shares of Dissenting Shareholder**

Required Reading: Casebook pp. 975-977  
VanDuzer pp. 454-458  
Statutory References: **CBCA** s. 190  
**OBCA** s. 185  
(Note 2007 amendments to s. 185)

**(i) Winding Up and Dissolution**

Required Reading: Casebook pp. 986-989  
VanDuzer pp. 458-460  
Statutory References; **CBCA** s. 214  
**OBCA** s. 207

**VIII – CORPORATE GOVERNANCE IN THEORY AND PRACTICE**

Required Reading: Casebook pp. 207-223  
VanDuzer pp. 519-544



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## Internet Sites for Provincial Legislation

[www.canlii.org](http://www.canlii.org)

This is a listing for all the provinces and is highly recommended

Ontario:

<http://www.attorneygeneral.jus.gov.on.ca/english/legis/>

British Columbia (Queen's Printer):

<http://www.bclaws.ca/>

Alberta (Queen's Printer):

<http://www.qp.alberta.ca/>

## Supreme Court Judgments

<http://scc.lexum.umontreal.ca/en/index.html>