



DCM LEVEL II

LAW GOVERNING CREDIT PRACTICE

TUESDAY: 31 August 2021.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Explain three types of debts which are not released upon the discharge of a bankrupt person. (6 marks)
- (b) Identify six general duties of a liquidator in liquidation. (6 marks)
- (c) In the context of corporate securities:
- (i) Distinguish between a “fixed charge” and a “floating charge”. (2 marks)
- (ii) Explain three disadvantages of floating charges. (6 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) Summarise three defences to copyright infringement. (6 marks)
- (b) In relation to land as security:
- (i) Explain three types of freehold estates. (6 marks)
- (ii) Outline four duties of a lessor under a lease agreement. (4 marks)
- (c) State four characteristics of a contract of guarantee. (4 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) Summarise four types of bailment. (4 marks)
- (b) State four remedies that are available to debenture holders. (4 marks)
- (c) Outline seven grounds for liquidation under the just and equitable ground. (7 marks)
- (d) Highlight five rights of a patentee who has been granted a patent. (5 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) Explain the manner in which loans guaranteed by the Cabinet Secretary on behalf of the national government might be recovered from the county government. (8 marks)
- (b) James Mutinda is a hotelier. He has a delinquent debtor who owes him Sh.2,000 and contemplates recovering the debt through litigation notwithstanding the tough economic times caused by Covid-19. James Mutinda has approached you for advice on how he might effectively recover the debt without undergoing protracted litigation.
- Advise James Mutinda on four tips for effective debt recovery. (8 marks)
- (c) Explain two responsibilities of a borrower who is unable to make a monthly loan repayment. (4 marks)
- (Total: 20 marks)**

QUESTION FIVE

(a) Enumerate any four characteristics of debentures. (4 marks)

(b) Indemnities; Everyone wants them but no one wants to give them.

With reference to the above statement:

(i) Explain four advantages of indemnities. (8 marks)

(ii) Explain four disadvantages of indemnities. (8 marks)

(Total: 20 marks)

QUESTION SIX

(a) Describe three objectives of the United Nations Commission on International Trade Law (UNCITRAL) legislative guide on insolvency law. (6 marks)

(b) In relation to leaseholds as a type of land tenure, describe four ways through which a lease might be terminated. (8 marks)

(c) Enumerate six contents of a letter of pledge as provided for under the Chattels Transfer Act. (6 marks)

(Total: 20 marks)

QUESTION SEVEN

(a) "A person who lends on the security of a specific mortgage of a company's property is always entitled to repayment of his loan out of the proceeds of sale of the mortgaged property before any other creditor. A person who takes a floating charge is not in a secure position." Pennington.

With reference to the above statement, describe four types of creditors who might have priority over the holder of a floating charge. (8 marks)

(b) (i) State any two alternatives to bankruptcy. (2 marks)

(ii) Outline three roles of creditors in bankruptcy proceedings. (3 marks)

(c) Highlight the order of distribution of assets in liquidation of a company before any surplus is distributed to members. (7 marks)

(Total: 20 marks)

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