



kasneb

DCM LEVEL II

LAW GOVERNING CREDIT PRACTICE

TUESDAY: 18 May 2021.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

(a) With reference to bankruptcy law, explain the meaning of the following terms:

(i) Bankruptcy. (2 marks)

(ii) Insolvency. (2 marks)

(b) Highlight five disadvantages of recovering debts through litigation. (5 marks)

(c) Explain three types of interest that are payable on treasury bonds. (6 marks)

(d) State five powers exercisable by the liquidator during insolvency proceedings without the sanction of the court. (5 marks)

(Total: 20 marks)

QUESTION TWO

(a) In relation to land as collateral, outline two definitions of the term "land". (4 marks)

(b) Highlight five factors which might influence a mortgagee to conduct a valuation of land which is offered as security. (5 marks)

(c) Explain three types of commercial securities required in lending. (6 marks)

(d) Outline five similarities between a "contract of guarantee" and a "contract of indemnity". (5 marks)

(Total: 20 marks)

QUESTION THREE

(a) Enumerate four features of a pledge contract. (4 marks)

(b) (i) Define the term "trade secret". (2 marks)

(ii) Explain two circumstances when a trade secret is no longer protected by trade secret law. (4 marks)

(c) (i) In relation to the United Nations Commission on International Trade (UNCITRAL) guidelines on model law on cross border insolvency, explain the term "Model Law". (2 marks)

(ii) Explain two attributes which a foreign insolvency proceeding must possess for it to fall within the scope of "Model Law". (4 marks)

(d) Explain two categories of persons who are disqualified from voting at a creditors' meeting during bankruptcy. (4 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Highlight four features of a lease agreement. (4 marks)
 - (b) Enumerate four duties of a bankrupt. (4 marks)
 - (c) List four ways in which a trustee in bankruptcy could attend and vote at a creditors' meeting. (4 marks)
 - (d) With regard to corporate securities:
 - (i) Explain the meaning of the term "corporate bond". (2 marks)
 - (ii) Outline two parties to a corporate bond. (2 marks)
 - (iii) Describe any two steps in the process of issuance of a corporate bond. (4 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Explain the following types of lien:
 - (i) Maritime. (2 marks)
 - (ii) Equitable. (2 marks)
 - (iii) Possessory. (2 marks)
 - (b) Highlight six bankruptcy offences. (6 marks)
 - (c) Enumerate eight circumstances under which a guarantee might be determined by operation of the law. (8 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Enumerate three types of company charges that might require registration under the Companies Act of your country. (3 marks)
 - (b) Explain three purposes of indemnity clauses in a contract. (6 marks)
 - (c) Explain three differences between "bonds" and "debentures". (6 marks)
 - (d) In relation to intellectual property (IP):
 - (i) State two disadvantages of patents over other IP types. (2 marks)
 - (ii) Explain three advantages of copyrights over other IP types. (3 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Explain three circumstances when re-delivery of a pawn may terminate a pledge contract. (6 marks)
 - (b) In relation to bankruptcy proceedings, state four legal effects of a person being adjudged bankrupt. (4 marks)
 - (c) Explain two documents that the official receiver should send together with the notice of the first creditors' meeting. (4 marks)
 - (d) In the context of interests in land:
 - (i) Differentiate between a "leasehold interest" and a "freehold interest". (4 marks)
 - (ii) Summarise the provisions of the Constitution of Kenya 2010 regarding the kind of interest in land that a foreigner can acquire. (2 marks)
- (Total: 20 marks)**
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