

# KASNEB

## DCM LEVEL II

### LAW GOVERNING CREDIT PRACTICE

TUESDAY: 22 November 2016.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

#### QUESTION ONE

- (a) In relation to advancing loans against title to goods, explain the meaning of the term "letter of pledge". (2 marks)
- (b) Indicate four circumstances under which a pledge as a form of bailment might be terminated. (8 marks)
- (c) With regard to bankruptcy of individuals, describe five duties of the official receiver in the debtor's estate. (10 marks)
- (Total: 20 marks)**

#### QUESTION TWO

- (a) With specific reference to government borrowing, explain the meaning of the following terms:
- (i) Treasury bills. (2 marks)
- (ii) Treasury bonds. (2 marks)
- (b) In relation to a creditors' voluntary winding up:
- (i) Outline the purpose of the committee of inspection. (2 marks)
- (ii) List three ways in which a person might cease being a member of the committee of inspection. (6 marks)
- (c) Highlight eight disadvantages of recovering debts through litigation. (8 marks)
- (Total: 20 marks)**

#### QUESTION THREE

- (a) Explain five types of guarantees. (5 marks)
- (b) Identify five remedies of a chargee under a legal charge. (5 marks)
- (c) Summarise four factors which a bank might consider before advancing money to a customer against a sub-mortgage. (4 marks)
- (d) Highlight three circumstances under which the mortgagee might sue the mortgagor for the mortgage money. (6 marks)
- (Total: 20 marks)**

#### QUESTION FOUR

- (a) Outline ten formal types of securities. (10 marks)
- (b) Describe the procedure that a bank might follow before creating a legal charge over immovable property. (10 marks)
- (Total: 20 marks)**

#### QUESTION FIVE

- (a) Barnabas Chomba delivered a very expensive suit to Lemmy Kariuki for repair and paid for the work in advance. The two agreed that Lemmy Kariuki would deliver the suit back to Barnabas Chomba's house upon repair.

The day before Lemmy Kariuki would deliver the suit to Barnabas's house, the suit was stolen from Lemmy's premises. Lemmy Kariuki has informed Barnabas Chomba of the theft.

Barnabas Chomba feels aggrieved and has approached you for advice.

Analyse the legal principles applicable in the above case and advise Barnabas Chomba appropriately. (8 marks)

- (b) Explain two advantages that accrue to an investor who invests in government treasury bonds. (4 marks)
- (c) Describe four remedies available to debenture holders. (8 marks)
- (Total: 20 marks)**

**QUESTION SIX**

With specific reference to insolvency law:

- (a) Highlight three instances in which a company could be considered unable to pay its debts. (6 marks)
- (b) Discuss five circumstances under which a company might be wound up by the court. (10 marks)
- (c) Describe four instances when the office of an official receiver might become vacant. (4 marks)
- (Total: 20 marks)**

**QUESTION SEVEN**

- (a) The most usual remedy invoked by the mortgagee in the event of serious default by his mortgagor is the exercise of the statutory power of sale.

With reference to the above statement, explain four instances when this remedy might be invoked. (8 marks)

- (b) Describe three circumstances under which a bankrupt will not be automatically discharged. (6 marks)
- (c) Summarise three advantages of a guarantee as a form of security. (6 marks)
- (Total: 20 marks)**

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