

KASNEB

DCM LEVEL II

LAW GOVERNING CREDIT PRACTICE

PILOT PAPER

September 2015.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Define the term "security" as used in credit practice. (2 marks)
- (b) In relation to commercial securities, explain the following terms:
- (i) Chargee. (2 marks)
 - (ii) Mortgage. (2 marks)
 - (iii) Lien. (2 marks)
 - (iv) Pledge. (2 marks)
 - (v) Guarantee. (2 marks)
- (c) (i) Make a case against guarantee contracts. (4 marks)
- (ii) State four circumstances under which the right to bring an action by a chargee might accrue. (4 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) Distinguish between a "lien" contract and a "pledge" contract. (6 marks)
- (b) (i) Explain two types of guarantee contracts. (4 marks)
- (ii) Explain three circumstances in which a guarantee contract might be terminated. (6 marks)
- (c) With reference to government borrowing, distinguish between a treasury bill and a treasury bond. (4 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) (i) Explain four acts of bankruptcy. (8 marks)
- (ii) "In bankruptcy law, when the creditors have been paid, a bankrupt can apply for an order of discharge". Halsbury's Laws of England.
- State four circumstances when a court might decline to discharge a bankrupt. (4 marks)
- (b) Mumo Limited recently acquired a lucrative contract with the government. Unfortunately, the company has some financial constraints and therefore requires financial assistance. Mumo Limited comes to your financial institution for a loan.
- (i) Identify the appropriate security to create to secure the interests of your institution. (2 marks)
- (ii) Outline the procedure to follow in creating the security contract. (6 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) Explain three types of winding up a company. (6 marks)
- (b) Outline the order of priority of payments in bankruptcy. (6 marks)

- (c) (i) State four rules relating to disclaiming of property by a liquidator. (4 marks)
- (ii) Define the term "onerous property" as used in insolvency law. (2 marks)
- (d) Define the term "perfection" as used in securities. (2 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Distinguish between "freehold" and "leasehold" interests in land. (4 marks)
- (b) Explain two limitations related to debt recovery from government through the courts. (4 marks)
- (c) (i) Define the term "bailment". (2 marks)
- (ii) Explain three duties of a bailee. (6 marks)
- (d) Differentiate between a "floating" charge and a "fixed" charge. (4 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) (i) Explain three circumstances under which a trustee for debenture holders might be exempted from liability. (6 marks)
- (ii) Highlight the content of a debenture trust deed. (5 marks)
- (b) Distinguish between a "lease" and a "licence". (4 marks)
- (c) Highlight five principles of corporate insolvency. (5 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Summarise the content of the United Nations Commission on International Trade Law Legislative guide on insolvency law. (4 marks)
- (b) List four characteristics of a lease. (4 marks)
- (c) Distinguish between liquidation and receivership. (6 marks)
- (d) Explain three differences between voluntary winding up and compulsory winding up. (6 marks)
- (Total: 20 marks)**
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