



CCP PART II SECTION 4

LAW GOVERNING CREDIT PRACTICE

THURSDAY: 24 May 2018.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Jabali Shanzu intends to borrow Sh.900,000 from Saidia Bank Ltd. using his piece of land as a collateral.

Required:

- (i) Advise Jabali Shanzu on the procedure he should follow to qualify for the loan (charging the land). (8 marks)
- (ii) Assume that after 5 years Jabali Shanzu repays the loan. Describe the steps he should take to release the security created in (a) (i) above. (6 marks)
- (b) Highlight three rights of the mortgagor. (6 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Summarise four advantages of debentures from the borrower's point of view. (8 marks)
- (b) Explain the priority of charges. (4 marks)
- (c) Describe four benefits of investing in corporate bonds. (4 marks)
- (d) Highlight two legal consequences of the crystallisation of a floating charge. (4 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Explain the meaning of the term "release of lien". (4 marks)
- (b) Summarise six essentials of a pledge. (6 marks)
- (c) Describe the procedure to be followed by an investor who intends to invest in treasury bonds. (10 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Aloys Jengo agreed with Eagle Bank Ltd. that in consideration of the bank advancing Sh.100,000 to Eunice Karita on the strength of Eunice' car as security, Aloys Jengo would repay the amount together with interest should Eunice Karita default. Eagle Bank Ltd. advanced the money to Eunice who has since defaulted. Aloys Jengo is almost insolvent. It has also emerged that Eagle Bank Ltd. had unilaterally altered the terms of the agreement.

Required:

- (i) Identify the legal transaction created in the above scenario and the names of the parties to the transaction. (2 marks)
- (ii) Justify to Eagle Bank Ltd. four reasons why Aloys Jengo is a favoured debtor as compared to Eunice Karita. (8 marks)
- (b) Describe two rights of an indemnity holder. (4 marks)
- (c) (i) Define the term "security interest". (2 marks)
- (ii) Outline four characteristics of a security interest. (4 marks)

(Total: 20 marks)

**QUESTION FIVE**

(a) You are the legal manager of Kredit Bank Ltd. Grace, a customer of the bank who had used her tractor to secure a loan of Sh.2 million has repaid the amount in full and she intends to have the loan entry removed from the records held at the relevant Registration of Documents Registry. Grace has been referred to you by the credit manager.

**Required:**

- (i) Identify the name of the document that had been registered. (1 mark)
- (ii) State the document you will prepare to have the loan entry removed. (1 mark)
- (iii) Outline eight contents of the document in (a) (i) above. (8 marks)

(b) In the context of consumer protection in credit card agreements:

- (i) Define the term “deferred payment”. (2 marks)
- (ii) Summarise four types of default charges that the lender might impose on the borrower. (8 marks)

**(Total: 20 marks)**

**QUESTION SIX**

(a) Jabu Microfinance Ltd. has made an application for a licence to carry out deposit-taking business. The regulator has advised Jabu Microfinance Ltd. company to prepare a feasibility study report to accompany the application. The directors of Jabu Microfinance Ltd. have requested you to assist them prepare the report.

**Required:**

Outline ten areas the report of the feasibility study undertaken by Jabu Microfinance Ltd. should include. (10 marks)

(b) (i) A lender is not entitled to impose on a borrower under a credit agreement default charges other than three specified categories of charges.

With reference to the above statement, explain three types of authorised default charges a lender is entitled to impose on a borrower. (6 marks)

(ii) Suggest four precautionary measures the cardholder might take to manage unauthorised credit card charges. (4 marks)

**(Total: 20 marks)**

**QUESTION SEVEN**

(a) With reference to corporate governance:

(i) Discuss five objectives of investor education programmes. (10 marks)

(ii) The objective of a board credit committee within a lending institution is to assist the board of directors in reviewing and overseeing the overall lending of the institution.

Outline four roles and responsibilities of the board credit committee. (4 marks)

(b) A Sacco Society shall have a written credit policy consistent with the relevant laws and regulations. The credit policy should contain certain information.

Identify six types of information that should be contained in the credit policy. (6 marks)

**(Total: 20 marks)**

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