

# KASNEB

## CCP PART II SECTION 4

### LAW GOVERNING CREDIT PRACTICE

#### PILOT PAPER

September 2015.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

#### QUESTION ONE

- (a) (i) Explain three types of securities. (6 marks)
- (ii) Outline two basic rights which accrue to a secured creditor. (2 marks)
- (b) Define the term "land" as used in law. (2 marks)
- (c) Mamba Bank Limited advanced credit to ABC Limited, which executed a charge over its land in Mamba Bank's favour. After three months, ABC Limited pledged its motor vehicles to Jackline. A year later, Esther advanced some money to ABC Limited and a security contract over its stock was executed to her favour. Later on, another security contract in favour of John charging its book debts was executed by ABC Limited. This security was created 6 months prior to the winding up of the company.
- Advise on the priority of the above security contracts. (10 marks)
- (Total: 20 marks)**

#### QUESTION TWO

- (a) Highlight four duties of a chargor. (4 marks)
- (b) Identify the contracts created in the following situations:
- (i) Juma delivers the possession of his watch to Ali so that it can act as a security for money advanced.
- (ii) Simon retains the possession of some goods belonging to Alice for non-payment of the price.
- (iii) Sure Insurance Company promises to compensate Otieno in case of an accident.
- (iv) Mercy undertakes to pay Onyango's liabilities in case Onyango defaults. (4 marks)
- (c) Explain three circumstances when the statutory power of sale will accrue in a charge contract. (6 marks)
- (d) John delivered his gold to Zinco Bank Limited for safe keeping. After a month, there was a heist at the bank and the gold was lost. Advise John on the duties of Zinco Bank in relation to their contract with John. (6 marks)
- (Total: 20 marks)**

#### QUESTION THREE

- (a) (i) Define the expression "chattel transfer instrument". (2 marks)
- (ii) Explain four requirements of creating a valid chattel transfer instrument. (8 marks)
- (b) Explain five requirements for registration of a microfinance institution. (10 marks)
- (Total: 20 marks)**

#### QUESTION FOUR

- (a) In relation to lending institutions, explain four functions of each of the following committees:
- (i) The credit committee. (4 marks)
- (ii) The audit committee. (4 marks)

- (b) State four principles of good corporate governance. (4 marks)
  - (c) In relation to the Consumer Protection Act, explain the following terms:
    - (i) Credit agreement. (2 marks)
    - (ii) Unconscionable representation. (2 marks)
    - (iii) Credit repair. (2 marks)
    - (iv) Consumer. (2 marks)
- (Total: 20 marks)**

**QUESTION FIVE**

- (a) State ten requirements of a grant of a licence to operate Front Office Service Activities (FOSA) business by the Sacco Societies Regulatory Authority. (10 marks)
  - (b) Explain two common clauses in a guarantee contract. (4 marks)
  - (c) Explain three types of freehold interest in land. (6 marks)
- (Total: 20 marks)**

**QUESTION SIX**

- (a) State four types of debentures. (4 marks)
  - (b) (i) Highlight four covenants of a grantor in a chattel transfer instrument. (4 marks)
  - (ii) In relation to pledge contracts, explain the effects of re-delivery of a pawn. (2 marks)
  - (c) BNA Limited recently acquired a lucrative contract and approached MBA Bank for a loan. The bank agreed to advance a loan to the company provided that a charge was created in the bank's favour.
- BNA Limited created a charge over its assets and the charge was registered after two months. It was however discovered that the charge instrument was unsealed and unwitnessed but the registrar, nevertheless registered it and issued a certificate of registration.
- Discuss three legal issues arising from the above scenario. (6 marks)
- (d) State four requirements which must be satisfied before a county government can be allowed to borrow. (4 marks)
- (Total: 20 marks)**

**QUESTION SEVEN**

- (a) (i) State four ways of terminating a pledge contract. (4 marks)
  - (ii) Distinguish between a "lien" and a "pledge". (4 marks)
  - (b) State four common clauses in a corporate bond. (4 marks)
  - (c) Explain four duties of a director of a company. (8 marks)
- (Total: 20 marks)**
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