

KASNEB

CCP PART III SECTION 6

DEBT RECOVERY

PILOT PAPER

September 2015.

Time Allowed: 3 hours.

Answer ALL questions. Marks allocated to each question are shown at the end of the question.

QUESTION ONE

- (a) (i) Explain three factors to consider before instituting a suit. (6 marks)
- (ii) In relation to civil suits, explain two types of jurisdiction of a court. (4 marks)
- (b) Highlight four circumstances when a res judicata plea might not succeed. (4 marks)
- (c) Explain the following terms as used in debt management:
- (i) Rescheduling. (2 marks)
- (ii) Amortisation. (2 marks)
- (iii) Interest only mortgage. (2 marks)
- (Total: 20 marks)

QUESTION TWO

- (a) (i) Define the term "pleading" as used in civil suits. (2 marks)
- (ii) State four documents that must be attached to a plaint at the time of filing a suit. (4 marks)
- (b) Describe three circumstances when a court can grant an order of attachment before judgement. (6 marks)
- (c) John and Mercy entered into a contract for the supply of goods. Mercy breached the contract and John successfully sued her for damages. However, Mercy did not have property that could be attached. John later discovered that Simon owed Mercy an amount of money equivalent to that owed by Mercy to John.
- Advise John. (8 marks)
- (Total: 20 marks)

QUESTION THREE

- (a) Explain the following terms as used in alternative dispute resolution mechanisms:
- (i) Negotiation. (2 marks)
- (ii) Arbitration. (2 marks)
- (b) (i) Explain three consequences of a debtor being declared bankrupt. (6 marks)
- (ii) Explain four offences that can be committed by a bankrupt. (8 marks)
- (c) Highlight two functions of the mediation accreditation committee. (2 marks)
- (Total: 20 marks)

QUESTION FOUR

- (a) Outline the order of priority in distribution of assets during the dissolution of a partnership. (4 marks)
 - (b) (i) Outline the content of a judgement of a court. (6 marks)
(ii) With reference to Section 44 of the Civil Procedure Act, outline the property which is not available for attachment on execution of a decree. (6 marks)
 - (c) Explain four circumstances under which a court might send a decree to another court for execution. (4 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Explain three provisions of the law relating to capital contribution by a partner. (6 marks)
 - (b) In relation to corporate insolvency, state four functions of a committee of inspection. (4 marks)
 - (c) Explain three circumstances under which summary judgement might be granted. (6 marks)
 - (d) In a members voluntary winding up, directors have a duty to file a declaration of solvency.
Explain two matters which must be included in a declaration of solvency. (4 marks)
- (Total: 20 marks)**
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