

KASNEB

CCP PART II SECTION 4

LAW GOVERNING CREDIT PRACTICE

THURSDAY: 24 November 2016.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Explain the meaning of the term “micro finance institution.” (2 marks)
- (b) With reference to the regulation and supervision of Sacco Societies, itemise four functions of the Sacco Societies Regulatory Authority (SASRA). (8 marks)
- (c) Chetu Limited issued a debenture to Sunlight Bank Limited two years ago. The debenture was routinely described as a fixed and floating charge. Inadvertently, the charge was neither dated nor registered within the required statutory period. Chetu Limited is now in liquidation and the loan is in arrears. Sunlight Bank Limited has sought your advice regarding the legality of the charge.

Analyse the legal principles applicable in the above case and advise Sunlight Bank Limited. (10 marks)
(Total: 20 marks)

QUESTION TWO

- (a) Explain five types of bailment. (10 marks)
- (b) With reference to corporate governance, describe five duties of an effective board of directors. (10 marks)

(Total: 20 marks)

QUESTION THREE

- (a) In relation to land as security, explain the following terms:
- (i) Estate. (2 marks)
- (ii) Absolute title. (2 marks)
- (iii) Qualified title. (2 marks)
- (b) Outline two characteristics of a banker’s lien. (4 marks)
- (c) William Mwatela, while on his way to his place of work came across Jones Pole, an accident victim who required urgent medical attention. William Mwatela rushed Jones Pole to Mercy Hospital for medication. Mercy Hospital declined to receive Jones Pole since he had no money but was promising to pay the following day. Mercy Hospital attendants admitted Jones Pole when William Mwatela promised the hospital authorities as follows: “Please let him have the necessary medication, I will ensure you are paid”. Jones Pole is unwilling to pay for the hospital bill and Mercy Hospital intends to sue William Mwatela who has come to you for legal advice.

Analyse the legal principles applicable in the above case and advise William Mwatela. (10 marks)
(Total: 20 marks)

QUESTION FOUR

- (a) Evaluate six clauses that are contained in a bank guarantee form. (12 marks)
- (b) Describe four conditions under which a person who obtains confidential information in credit agreements could disclose such information. (8 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) With reference to government borrowing:
 - (i) Highlight four types of information that the Minister responsible for Finance in your country should maintain on any loan or guarantee rendered to the government. (4 marks)
 - (ii) Define the term “public debt”. (2 marks)
- (b) Explain the meaning of the term “instrument” as used in chattel mortgages. (6 marks)
- (c) Principles of good corporate governance demand that there should be disclosure and transparency.

With reference to the above statement, identify eight areas that the Organisation for Economic Co-operation and Development (OECD) guidelines prescribe disclosure of material information should relate to. (8 marks)

(Total: 20 marks)

QUESTION SIX

With reference to the regulatory framework for savings and credit cooperative societies (Saccos), explain the provisions governing:

- (a) Security for loans. (6 marks)
- (b) Inter-Sacco borrowings. (8 marks)
- (c) Limits on loans and credit facilities. (6 marks)

(Total: 20 marks)

QUESTION SEVEN

- (a) Explain three characteristics of a floating charge. (6 marks)
- (b) Highlight two circumstances under which a floating charge crystallises. (4 marks)
- (c) Describe two types of debentures under each of the following classifications:
 - (i) From the security point of view. (2 marks)
 - (ii) On the basis of redemption. (2 marks)
 - (iii) On the basis of records. (2 marks)
 - (iv) On the basis of convertibility. (2 marks)
 - (v) On the basis of priority. (2 marks)

(Total: 20 marks)

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