

EXAMINATION NO. \_\_\_\_\_

**THE PUBLIC ACCOUNTANTS EXAMINATION**  
**COUNCIL OF MALAWI**

**2013 EXAMINATIONS**

**ACCOUNTING TECHNICIAN PROGRAMME**

**PAPER TC 8: BUSINESS LAW**

**THURSDAY 6 JUNE 2013**

**TIME ALLOWED : 3 HOURS**  
**9.00 AM - 12.00 NOON**

**INSTRUCTIONS**

1. You are allowed **15 minutes** reading time **before the examination begins** during which you should read the question paper and, if you wish, make annotations on the question paper. However, you will **not** be allowed, **under any circumstances**, to open the answer book and start writing or use your calculator during this reading time.
2. Number of questions on paper - 8.
3. The paper is divided into Sections **A** and **B**.
4. **FIVE** questions **ONLY** to be answered; at least **TWO** questions from each section.
5. Each question carries 20 marks.
6. Your answers must be supported, where appropriate, by relevant decided cases and statutory provisions.
7. Begin each answer on a fresh page.
8. **DO NOT OPEN THIS PAPER UNTIL YOU ARE INSTRUCTED BY THE INVIGILATOR**

This question paper contains 4 pages

This question paper must **not** be removed from the examination hall.

**SECTION A**

1. A Telecommunications Company based in Tuvalu intends to venture into telecommunication business in Malawi. Its managing director wishes to have a brief from you on various commercial laws that will affect its business. In particular, five Acts of parliament have been identified for your comment.

**Required:**

Comment on the importance of the following identified Acts of Parliament:

- |     |                            |                          |
|-----|----------------------------|--------------------------|
| (a) | The Sale of Goods Act      | <b>4 Marks</b>           |
| (b) | The Hire Purchase Act      | <b>4 Marks</b>           |
| (c) | The Partnership Act        | <b>4 Marks</b>           |
| (d) | The Commercial Credits Act | <b>4 Marks</b>           |
| (e) | The Bills of Exchange Act  | <b>4 Marks</b>           |
|     |                            | <b>(TOTAL: 20 MARKS)</b> |

2. (a) In relation to the law of contract, discuss the following statements:
- |       |  |                |
|-------|--|----------------|
| (i)   | An offer can be made to the world at large.              | <b>3 Marks</b> |
| (ii)  | Display of goods in a shop does not constitute an offer. | <b>3 Marks</b> |
| (iii) | All agreements are not contracts.                        | <b>3 Marks</b> |
| (iv)  | Consideration must support the promise.                  | <b>3 Marks</b> |
- (b) Mention and explain any **four** remedies that the law provides for breach of a contract.
- 8 Marks**  
**(TOTAL: 20 MARKS)**

**Continued/.....**

3. (a) State **two** types of authority that a wife, in Malawi, may have to act on behalf of her husband. **2 Marks**
- (b) Distinguish a **commercial agent** from a **gratuitous agent**. **4 Marks**
- (c) Comment on the following types of agents:-
- (i) Bankers **2 Marks**
  - (ii) Lawyers **2 Marks**
  - (iii) Patent agents **2 Marks**
  - (iv) Travel agents **2 Marks**
- (d) Mr Phiri, a Malawian businessman, instructs Paul to buy motor vehicles for his business from Dubai. The agreement is that upon arrival in Dubai, Paul will call or e-mail Mr Phiri about particular models of vehicles available on the market and their prices. When Paul calls Mr Phiri, he learns that Mr Phiri has been involved in an accident and is in a comma. Paul is so eager to sign contracts on behalf of Mr Phiri believing that Mr Phiri will ratify the agreements when he gets well. Considering the seriousness of his intended action, Paul e-mails you for advice.

**Required:-**

Advise Paul on the conditions that must be met for the effective ratification of an agent's acts by a principal. **6 Marks**

**(TOTAL: 20 MARKS)**

4. (a) Define a 'cheque'. **2 Marks**
- (a) Describe how a bill of exchange is discharged. **2 Marks**
- (b) Mention **three** general duties of a holder of a bill of exchange. **6 Marks**
- (c) Describe **four** types of endorsement that may be made on a bill of exchange. **8 Marks**
- (d) Who may have capacity to incur liability as a party to a bill? **2 Marks**

**(TOTAL: 20 MARKS)**

**Continued/.....**

### **SECTION B**

5. Discuss any **four** of the following legal concepts as expressed in Latin:

- |  |                |
|--|----------------|
| (a) <i>Contra preferentem rule</i>               | <b>5 Marks</b> |
| (b) <i>Caveat emptor</i>                         | <b>5 Marks</b> |
| (c) <i>Quantum meruit</i>                        | <b>5 Marks</b> |
| (d) <i>Non est factum</i>                        | <b>5 Marks</b> |
| (e) <i>Expressio unius est exclusio alterius</i> | <b>5 Marks</b> |
| <b>(TOTAL: 20 MARKS)</b>                         |                |

6. Blantyre Bank Limited, the most profitable bank in Malawi, enters into a sale agreement with Exotic International Suppliers Ltd. The Bank agrees to buy all its stationery requirements for the current financial year from Exotic Ltd. The contract is worth a whopping one billion Kwacha.

**Required:**

- |   |                |
|---|----------------|
| (a) Advise Exotic Ltd on the possible course of action, in the event that the Bank changes its mind and contracts a different supplier.   | <b>5 Marks</b> |
| (b) Advise Exotic Ltd of its remedies, under the Sale of Goods Act, in the event that the supplies are ready but the Bank is refusing to take delivery of them.   | <b>6 Marks</b> |
| (c) Advise the Bank of its remedies in the event that Exotic Ltd has received a deposit but due to a strong earthquake that affected its warehouses, it is unable to deliver the goods.   | <b>4 Marks</b> |
| (d) Mention the court that would have jurisdiction to hear a dispute arising out of this contract.  | <b>1 Mark</b>  |
| (e) Upon investigation, the Anti-Corruption Bureau has evidence that in the process of tendering this contract, one senior officer in the Bank received a bribe of K1 million in order to influence a decision to offer the contract to a rival of Exotic Ltd, Face-look Distributors (Mw) Ltd. |                |

**Required:**

Advise the Director of the Bureau in which court to commence the case and the likely remedies that the court will grant.

**4 Marks**  
**(TOTAL: 20 MARKS)**

7. Alick is self employed and employs Barca as the production manager of his passenger transport business. The business has a few minibuses for its local operations. In the recent past, the business has expanded, following the purchase of several luxury coaches plying both the local and international routes. Alick is now considering the possibility of whether or not to convert the business into a partnership or a private limited company.

**Required:**

Advise Alick and Barca, in detail, on the benefits and drawbacks of each type of business organization. Your answer must be supported by relevant statutory and case authorities.

**(TOTAL: 20 MARKS)**

8. (a) Define a hire purchase agreement. **5 Marks**
- (b) What is included within the term “purchase price” under hire purchase agreements? **7 Marks**
- (c) Mention the conditions and warranties implied in a hire purchase agreement. **6 Marks**
- (d) When does property pass in a hire purchase agreement? **2 Marks**

**(TOTAL : 20 MARKS)**

**E N D**