

EXAMINATION NO. _____



2016 EXAMINATIONS

KNOWLEDGE LEVEL

PAPER 2 : LEGAL FRAMEWORK

TUESDAY 31 MAY 2016

**TIME ALLOWED : 3 HOURS
2.00PM - 5.00 PM**

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 - 7
3. The paper is divided into Sections **A** and **B**. All questions to be answered in Section **A** and **ANY TWO** from Section **B**.
4. Each question carries 20 marks.
5. Your answers should be supported by authorities, where appropriate.
6. This question paper should **not** be removed from the examination hall.
7. **DO NOT OPEN THIS PAPER UNTIL YOU ARE INSTRUCTED BY THE INVIGILATOR**

This question paper contains 4 pages

SECTION A

Answer all questions in this Section

1. (a) One of the functions of courts in Malawi is to administer civil law.

Required:

- (i) Explain, with examples, the importance of civil law. **2 Marks**
(ii) State how a civil claim is proved in court. **4 Marks**

- (b) Legislation is one of the sources of law in Malawi.

Required:

- (i) With examples, explain the meaning of the term “legislation”. **6 Marks**
(ii) Explain the criminal jurisdiction of Magistrates’ Courts in Malawi. **8 Marks**

(TOTAL : 20 MARKS)

2. (a) James, aged 19, and John aged 21, were both studying for the Accounting Technician Diploma at the Malawi College of Accountancy. On 13 April 2016, James borrowed K15,000 from John to enable him buy a textbook. James promised to repay the debt by 30 April 2016. Up to this day, James has not paid the money. John intends to commence civil proceedings against James for breach of contract.

Required:

Advise John the legal issues which he must prove to establish his claim.

10 Marks

- (b) Explain any **five** circumstances which may cause a contract to be discharged by frustration.

10 Marks

(TOTAL : 20 MARKS)

Continued/.....

3. (a) In relation to the sale of goods, explain the following:
- (i) the meaning of the term “existing goods”. **1 Mark**
 - (ii) the difference between “future goods” and “specific goods”. **5 Marks**
- (b) Alex ordered 100 bicycles from Bicycle Manufacturing Co. Ltd for K3 million. He paid K2.5 million and left a balance of K500,000 which he promised to pay by five monthly instalments of K100,000 from January 2016. The seller, Bicycle Manufacturing Co. Ltd, clearly stated that title would not pass until full payment had been made. Five months have elapsed since the contract was entered into and Alex has not paid the K500,000 balance. Alex had apparently, borrowed K3 million from NBS Bank which he was to repay with 5% interest by 30 March 2016. Alex failed to repay the bank loan. NBS Bank took possession of all the 100 bicycles for the unpaid loan.
- Required:**
- Advise Bicycle Manufacturing Co. Ltd of their legal position. **8 Marks**
- (c) In relation to the sale of goods, explain the meaning of the term “sale under a voidable title”. **6 Marks**
- (TOTAL : 20 MARKS)**

SECTION B

Answer ANY TWO questions from this section

4. (a) Where an employer has in his employment at least five employees, it is a legal requirement within Employment Law that a newly employed employee be given a written statement of particulars of his employment by the employer.
- Required:**
- State the issues which must be contained in the statement of particulars of employment and the period within which the statement must be issued. **10 Marks**
- (b) Albert Zinyemba, a driver in Kasito Car Hire Co. Ltd, has been dismissed on the ground of redundancy. He has just learned from his colleague that he should claim “severance allowance” but he does not know what this allowance is.
- Required:**
- Explain to Albert what “severance allowance” is and the circumstances under which this can be claimed. **10 Marks**
- (TOTAL : 20 MARKS)**

Continued/.....

5. (a) Elizabeth John is a sole trader. She sells shoes in Blantyre market. The business is progressing well. She now intends to form a company. She has been told informally that the procedure requires certain documents to be drafted and submitted to the Registrar of Companies.

Required:

Mention the **two** documents that should be drafted and submitted to the Registrar of Companies and their usual contents. **10 Marks**

- (b) Explain **five** standard grounds which a petitioner for compulsory winding up of a registered company may rely upon. **10 Marks**
(TOTAL : 20 MARKS)

6. (a) Explain the meaning of the following terms as used in the law of agency:

- (i) Express agent; **4 Marks**
(ii) Implied agent. **4 Marks**

- (b) In relation to agency law, explain the difference between a “factor” and a “broker”. **4 Marks**

- (c) Explain the circumstances under which an agency of necessity may be created. **8 Marks**
(TOTAL : 20 MARKS)

7. (a) In relation to the law of negligence, every person has a duty of care not to cause economic loss to other persons by his negligent misstatement.

Required:

Explain the significance of this statement. **10 Marks**

- (b) The law of torts and the law of contract are both branches of private (civil) law, but the two are quite different from each other.

Required:

Explain the main difference between “tort” and “contract”. **10 Marks**
(TOTAL : 20 MARKS)

END