THE INSTITUTE OF CHARTERED ACCOUNTANTS IN MALAWI

2015 EXAMINATIONS

ACCOUNTING TECHNICIAN PROGRAMME

PAPER TC8: BUSINESS LAW

WEDNESDAY 10 JUNE 2015   **TIME ALLOWED : 3 HOURS**
                                                                   2.00 PM   -   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**.

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 2 pages

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

SECTION A

1.   (a)   Explain the doctrine of binding precedent in Malawi law paying particular regard to the hierarchy of the courts and the relative advantages and disadvantages of the doctrine. **10 Marks**

      (b)   Define delegated legislation, citing its advantages and disadvantages. **10 Marks**
(TOTAL 20 MARKS)

2.   (a)   In relation to contract law, distinguish between an **offer** and **invitation to treat** and explain why it is important to make such a distinction. **10 Marks**

      (b)   Consider *Hadley v. Baxendale* (1854) 9 Ex 341 and discuss the rules relating to remoteness of damages. **10 Marks**
(TOTAL 20 MARKS)

3.   (a)   In terms of the Partnership Act, summarize the rules that courts use to determine the existence of a partnership. **6 Marks**

      (b)   Identify and explain **any five** rights conferred on partners under the Partnership Act. **10 Marks**

      (c)   Cite **any two** hypothetical scenarios where the tort of negligence is present.
4 Marks
(TOTAL 20 MARKS)

4.   (a)   State the function of the Commercial Credit Act. **5 Marks**

      (b)   Define a hire purchase agreement. **5 Marks**

      (c)   In relation to Employment Law, distinguish a contract of service from a contract for services. In your discussion include tests that the courts use in deciding whether a contract is one of service or for services. **10 Marks**
(TOTAL 20 MARKS)

SECTION B

5. The Malawi legal system consists of courts with criminal jurisdiction and courts with civil jurisdiction.

Required:

Discuss, in detail, the jurisdiction of courts dealing with criminal law and civil law.

20 Marks
(TOTAL 20 MARKS)

6. (a) Bangwe Line Ltd placed the following advertisement in a local newspaper: *'we are able to offer for sale a number of portable colour television sets at a specially reduced price of K10,000. Order now while stocks last.'* The advertisement contained a mistake in that the television sets should have been priced at K100,000. Having seen the advertisement, John immediately placed an order for 100 television sets. Bangwe Line Ltd is refusing to deliver the 100 television sets based on the mistake.

Required:

Making reference to decided cases, advise John whether or not the refusal by Bangwe Line Ltd to deliver the television sets is legally justified. **10 Marks**

(b) Following a takeover, the new owners of a hotel, Hip Hop Hotels Ltd, have decided to engage the hotel's previous owner, Mr Phiri, as its agent for sourcing beverages. However, they have expressly forbidden him from buying alcohol for the hotel from anyone other than Drink Enjoy Ltd. Last month, in breach of this restriction, Mr Phiri bought on credit some alcohol from Thirst Ltd who have now sued the hotel for payment as Mr Phiri's principal.

Required:

(i) Advise Thirst Ltd whether or not their action is likely to succeed. **5 Marks**

(ii) Explain any **five** ways in which Mr Phiri's authority can be terminated.

5 Marks
(TOTAL 20 MARKS)

7. (a) Define a bill of exchange and explain in detail how it may be used in trade.

10 Marks

(b) Explain any **five** duties and liabilities that a banker owes a customer. **10 Marks**
(TOTAL 20 MARKS)

E N D