



**CERTIFIED PUBLIC ACCOUNTANT
FOUNDATION LEVEL EXAMINATIONS**

F1.2: INTRODUCTION TO LAW

DATE: WEDNESDAY 28, AUGUST 2024

MARKING GUIDE & MODEL ANSWERS

QUESTION ONE

Marking guide

Sub question	Criteria	Marks
(a)	1 mark for the position well explained and 1 mark each for any example well provided for the maximum of 2 marks	3
(b)	0.5 mark for any distinct legal discipline well provided for the maximum marks of 1.5 and 0.5 mark for any example well provided for the maximum marks of 1.5,	3
(c)	1 mark for mentioning well the types of sanctions and 1 mark for any explanation of a sanction that will be given to Mr. Kamanzi well provided for maximum marks of 3	4
(d)	1 mark for mentioning well the competent court and 1 mark for any dispute that can be heard by the chamber for labour and administrative cases well provided, Maximum 4 marks	5
(e)	1 mark for mentioning the review the judgment vitiated by injustice, 1 mark for mentioning the President of the Court of Appeal and 1 mark for any reason well provided for maximum marks of 3	5
Total for question 1		20

Model answers

a) The candidate is expected to demonstrate knowledge and understanding on the classification of law

- All laws are important in governing the society. Substantive law cannot help without procedural law and the procedural law cannot help in a given society without substantive law.
- Examples of procedural law: criminal procedure law, civil, commercial and social procedure law;
- Examples of substantive law: Labour law, criminal law, family law, company law.

b) The candidate is expected to demonstrate knowledge and understanding on the classification of law especially international law

The term “international law” can refer to three distinct legal disciplines:

- Public international law, which governs the relationship between provinces and international entities.
- Examples of public international law: treaty law, law of sea, international criminal law, the laws of war or international humanitarian law and international human rights law.

- Private international law addresses the questions of (1) which jurisdiction may hear a case, and (2) the law concerning which jurisdiction applies to the issues in the case.
- Examples of private international law: Hague Abduction Convention (Convention) International treaty that provides a civil remedy to parents seeking the return of a child wrongfully removed or retained across international borders, it governs the choice of law to apply when there are conflicts in the domestic law of different nations related to private transactions between those nations,
- Supranational law or the law of supranational organizations, which concerns regional agreements where the laws of nation states may be held inapplicable when conflicting with a supranational legal system when that nation has a treaty obligation to a supranational collective.
- Examples of supranational law or the law of supranational organizations: East African Community treaty, African Union convention, EU treaty.

c) The candidate is expected to demonstrate knowledge and understanding on sanctions attached to law

- There are three main types of sanctions attached to a law: Criminal sanctions, Civil sanction and Disciplinary sanctions;
- Criminal sanctions are applied when an act which is defined by the Law as an offence and whose penalty is defined by the same law is committed. Penalties in Rwanda for example in case of a criminal conduct (offense) range from fine, community service to imprisonment; for this case, Mr. Kamanzi has committed an offence of intentional assault or battery which is punishable of imprisonment from a term of not less than 6 months but not more than one year and a fine of not less than FRW 100,000 but not more than FRW 300,000
- Civil sanctions concern violations of a law which protects private interests. When an act is committed and it qualifies a civil wrong susceptible of causing damages, a remedy may be defined by the court or the persons themselves may define the mode of reparation; Mr. Kamanzi is liable to repair a damage caused to Mr. Muyenzi;
- Disciplinary sanctions are such as those extended to employees of the civil service, judges and other magistrates as well as soldiers who do not conform to the duties of their functions. These sanctions range from the warning, temporary suspension and in extreme cases the exclusion from service. Mr. Kamanzi is subject to disciplinary sanction as he fought and struck Mr. Muyenzi on official mission and in working time.

d) The candidate is expected to demonstrate knowledge and understanding on competence of courts especially on administrative matters

- The competent court is chamber for labour and administrative cases of intermediate court of Gasabo;
- all claims relating to disputes arising from elections of administrative leaders except those who are tried in other courts;
- all claims for damages arising from extracontractual liability as a result of the actions of the government employees and its institutions;

- applications for revocation of decisions taken at last instance by administrative authorities on grounds of the breach of substantive and procedural rules, those of being taken by incompetent authorities or by those acting ultra vires;
- applications for revocation of administrative decisions or for damages arising from non-compliance with laws governing public service;
- all claims relating to civil liability if the damage arises from an act or omission of the administration or is caused by public works;
- all claims relating to contracts between Government authorities, whether governed by administrative or civil laws, except for contracts relating to public tenders;
- all claims relating to labor disputes between individuals and the Government or its corporations;
- all claims relating to seizure in the public interest, of private persons' movable or immovable property;
- all claims arising from expropriation in the public interest;
- cases relating to immovable property and succession thereto in case the subject matter is based on other contradictory decisions taken by a government institution on such property; claims against the State, except where the law provides otherwise.

e) The candidate is expected to demonstrate knowledge and understanding on reasons for review of a judgement on grounds of being vitiated by injustice

- to request for review the judgement vitiated by injustice
- The president of the Court of Appeal can be requested to examine the case and identified injustice
- A case that was finally determined at last instance may be reviewed on grounds of injustice due to one of the following reasons:
 - if there is unequivocal evidence of corruption, favoritism or nepotism that had effects on the judgment and which were unknown to the losing party during the course of the proceedings;
 - if during the trial, the judge showed blatant disregard for legal provisions and evidence;
 - if the judgment cannot be executed as it was decided.
- Any person wishing to have his/her case reviewed on grounds of being vitiated by injustice files, to that effect, a reasoned written application to the competent organ within thirty (30) days of notification of the judgement.

QUESTION TWO

Marking guide

Sub question	Criteria	Marks
(a)(i)	1 mark for any content of the arbitration clause well explained, Maximum 6 marks	6
(a)(ii)	1 mark for any difference well provided, Maximum 4 marks	4
(b)	1 mark for the position well explained, 1 mark for the listing requirements and 1 mark for any requirement well explained and linked to the case study, Maximum 3 marks	5
(c)	1 mark for any condition well explained for having a valid contract, Maximum 5 marks	5
Total for question 2		20

Model answers

a)

- i) **The candidate is expected to demonstrate knowledge and understanding on the content of the arbitration clause**

The arbitration clause should consider:

- The law governing the contract;
 - the number of arbitrators;
 - the place of arbitration shall be;
 - to mention that it will be institutional or ad hoc;
 - the language of the arbitration;
 - the role of the parties in the process (how the arbitrators and the costs of the procedures will be paid).
- ii) **The candidate is expected to demonstrate knowledge and understanding on the difference between arbitration and litigation**
- Cost and Expeditiousness: to know that it is arbitration is more expensive than litigation can be based on the value of the case. If the value of the case is much money, comparing the timeframe, arbitration is not costly. Comparing if the value of the case is not much money, to pay arbitrators and the lawyers, to use litigation can be good decision than using arbitration.
 - Confidentiality: court proceedings are open to the public while awards in arbitral proceedings are confidential and the proceedings are closed to the public;

- Flexibility: court proceedings which are rigid, arbitral proceedings offer greater flexibility in international commercial transactions. Parties get to choose their own arbitrators, in addition to having the independence to customize the arbitration proceedings to suit their wishes. Although parties may choose an already established arbitral institution with its own set of rules of procedure, the parties have a choice to decide on whether or not they want a totally different procedure that better serves their needs
- Impartiality: One of the main reasons parties opt for arbitration over litigation is the fear the national courts will be biased in favor of their own citizen or the advantage of the home litigant in issues such as knowing the system, procedural rules, etc. Therefore, proceeding on the assumption that the arbitral tribunal will be fair and impartial and will not take the nationality of the parties into consideration, parties choose arbitration over litigation.

b) The candidate is expected to demonstrate knowledge and understanding on the requirements for the liability for personal acts

- The requirements for the liability for personal acts are the fault, damage and the link between the fault and damage caused.
- The fault is analysed as the culpability can consist in the fault as violation of a rule, as a fault without a violation of a rule or abuse of authority. Mr. Joe committed a fault as he played football on a prohibited area, on street;
- In order for the victim to be indemnified, there has to be not only the fault but also the damage. This is the harm to be repaired. It has material damage and moral damage. material This is damage on one's patrimony. It is defined as attack on one's patrimony arising from bodily injury, death or damage to property. The moral damage is the extra-patrimonial damage. It is a damage which does not concern one's patrimony. On this scenario, there is material damage and moral damage as she was unconscious and treated one week. There is also moral damage;
- The victim must establish that there is a direct, certain and immediate relationship between the fault and the damage which has been suffered. The lady fell to the ground unconscious due the shot of Mr. Joe. This shows that damage was caused by the fault of Joe.
- Basing on the analysis done above, Joe is liable to pay the compensation of the damages caused.

c) The candidate is expected to demonstrate knowledge and understanding on the conditions for having valid contract

- There are conditions of having a valid contract that are Mutual assent, capacity, legality of purpose and consideration
- Mutual assent: the parties to a contract must manifest by words or conduct that they have agreed to enter into a contract. The usual method of showing mutual assent is by an offer followed by an acceptance;
- Capacity: the parties to a contract must have contractual capacity. Certain persons such as adjudicated incompetents have no legal capacity to contract while others such as

minors, incompetent persons, and intoxicated persons have limited capacity to contract. All others have fully contractual capacity;

- legality of purpose: The purpose of the contract must not be criminal, tortuous or otherwise against the public policy. An illegal contract is unenforceable;
- consideration: Each party to a contract must intentionally exchange a legal benefit or incur a legal detriment as an inducement to the other party to make a return promise;
- Basing on the analysis made, the contract of sale of house between Miss Jane and Mr. Paul is null (voidable) because of lacking capacity to Mr. Paul.

QUESTION THREE

Marking guide

Sub question	Criteria	Marks
(a)	1 mark for the position well explained and 1 mark for any difference between a sale and agreement for sale, Maximum 3 marks	4
(b) (i)	1 mark for the definition of agency well provided, Maximum 1 mark	1
(b) (ii)	1 mark for any essential of a contract of agency well explained, Maximum 3 marks	5
(c) (i)	1 mark for the right position and 1 mark for the well explained of the position	2
(c) (ii)	1 mark for any situation of ending contractual obligations	3
(d)	1 mark for any limitation of the prerogative of ownership right of usus well provided, Maximum 5 marks	5
Total for question 3		20

Model answers

- a) **The candidate is expected to demonstrate knowledge and understanding on the difference between a sale and agreement for sale**
- Basing on the case study above, it is an agreement for sale because the time agreed was not yet elapsed;
 - It is sale when the seller transfers the property in the goods immediately to the buyer there is a sale. But where the transfer of the property in the goods is to take place at a future time or subject to some condition(s) thereafter to be fulfilled, the contract is called an agreement for sale;
 - An agreement for sale becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred;
 - Every sale originates in an agreement to sell;
 - It is an agreement to sell which gives birth to a sale;
 - On a sale, the agreement of sale is completely exhausted and ceases to exist.
 - The following table shows the difference between a sale and agreement for sale

SALE	AGREEMENT TO SELL
In the contract of sale, the exchange of goods takes place immediately.	In the agreement to sell the parties agree to exchange the goods for a price depending on the fulfilment of certain conditions at a future specified date.
The nature in the sale is absolute.	The nature of the agreement to sell is conditional.
It is an executed contract.	It is an executory contract.
Transfer of risk takes place immediately.	Transfer of risk doesn't take place, until and unless the goods are transferred.
The right to sell remains with the buyer	The right to sell remains with the seller.
Here the seller has the right to sue for the price.	Here the seller has the right to sue for damages.
It creates a right in rem.	It creates a right in personam.
The seller has no right to resell.	The seller has the right to resell the same goods if the conditions are not fulfilled.
On the off chance that the products are annihilated, the misfortune is borne by the buyer despite the fact that the merchandise is in the ownership of the seller.	The loss falls on the seller despite the fact that the merchandise is in the ownership of the buyer.

b)

i) The candidate is expected to demonstrate knowledge and understanding on the definition of agency

- Agency is a relationship between two parties created by agreement express or implied;
- The relationship of agency arises wherever one person called the agent has authority to act on behalf of another called the principal.

ii) The candidate is expected to demonstrate knowledge and understanding on the key features of agency

The relationship of agency is based upon a contract. The contract may be either express or implied. The essentials of agency are as follows:

- There should be the appointment by the principal of an agent
- The principal should confer authority on the agent to act for him
- The authority conferred must be such as will make the principle answerable to third parties.
- The object of the appointment must be to establish relationship between principal and third parties.
- The relationship of agency, being based on confidence between the principal and the agent, deems that no consideration is necessary.

c)

i) The candidate is expected to demonstrate knowledge and understanding on different situations of ending contractual obligations

- Mr. Kwitonda is right, it was discharged by the condition;
- A condition is an event whose happening or non-happening affects a duty of performance under a contract.

ii) The candidate is expected to know different situations of ending contractual obligations

- Discharge by performance: The performance signifies that the parties have dutifully carried out their respective obligations, thus freeing themselves from further liability;
- Discharge by agreement: After the formation of contract, but prior to complete performance, parties may wish to bring their contractual rights and obligations to an end;
- Frustration or impossibility: Frustration generally arises when a contracting party refuses to perform or has failed to perform its obligations in whole or in part because performance of the contract has become either physically impossible, illegal or is no longer commercially viable;
- Discharge by breach: When one party fails to perform his obligations or performs them in a way that does not correspond with the agreement, the innocent party is entitled to a remedy.

d) The candidate is expected to demonstrate knowledge and understanding on the limitations of enjoying ownership right of usus

The limitations to the prerogative of usus are the following:

- to meet the interests of good neighborliness like the legal servitudes (e.g. a charge imposed on an immovable by the law);
- limitations concerning the sight of your neighbors, the paths, the plantations;
- the general interests as in urbanization licenses, land development plans, protection of Memorials or historic sites;
- Hygiene and sanitation rules - stopping people from rearing animals in towns and cities, disposal of waste etc.);
- Agricultural policy of the Ministry of Agriculture and Animal Resources regarding how a given type of land will be used;

- Expropriation due to the public utility of your property (e.g. Land for the construction of a road or a public school or market).

QUESTION FOUR

Marking guide

Sub question	Criteria	Marks
(a)	1 mark for any distinct characteristic of negotiable instrument well explained, Maximum 4 marks	4
(b)	1 mark for any risk that impact on their ability to pay well explained, Maximum 3 marks	3
(c)	1 mark for the position well explained and 1 mark for any duty of agent to principal well provided with maximum of 2 marks	3
(d)	1 mark for the better position and 1 mark for any well explained motivation with maximum of 4 marks	5
(e)	1 mark for the position and 1 mark for any explanation well provided with maximum of 4 marks	5
Total for question 4		20

Model answers

a) The candidate is expected to demonstrate knowledge and understanding on the distinct characteristics of negotiable instruments

- Negotiability: It refers to the ability to transfer entitlements under the negotiable instrument from one person to another in such a manner to constitute from the transferor a holder of the negotiable instrument. As we examine specific types of negotiable instruments, we will discover that the law distinguishes between various types of negotiability. For example, a bill of exchange payable to bearer is negotiated by mere delivery, whereas a bill of exchange payable to order is negotiated by endorsement of the holder of the bill and completed by delivery;
- Monetary value: Negotiable instruments contain a continued commitment by the issuer to pay the stipulated sum of money. A simple statement of an object of a specified monetary value is not enough to render a document a negotiable instrument;
- Commitment to pay: Negotiable instruments contain a continued commitment by the issuer to pay the stipulated sum of money. A simple transfer of credit payable to holder is not enough if the issuer does not guarantee payment;
- Short-term title: In order to facilitate a simple exchange of title, the credit stipulated in the negotiable instrument must cover an easily obtainable and transferable payment. Long-term titles seem to complicate such an easy transfer. There are however, no hard and fast rules as to what constitutes a short-term title. The fact that the bank sets dates within which a cheque is to be cashed, is not to be taken as a measurement criterion in this regard;

- Usage and collection of title in payment: One of the consequences of negotiability is that negotiable instruments can be used and explained in a similar to that of ordinary money. The title to some or most negotiable instruments includes most of the foregoing requirements. The prime example is that of a bill of exchange (lettre de change) which may be defined as “an unconditional order in writing, addressed by one person to another, signed by the person giving it, “requiring the person to whom it is addressed to pay on demand or at fixed or determinable future time a sum certain in money to or to the order of a specified person, or to bearer.

b) The candidate is expected to demonstrate knowledge and understanding on the risks of insurance to insurers

- the risks that impact on their ability to pay can be classified into three main categories namely technical risks, asset risks and other;
- Technical risks arise from the very nature of the insurance business hinging on the determination of liabilities. Insurance liabilities are estimated using actuarial or statistical techniques, based on probability using past experience and making assumptions about the future. If these calculations are incorrect, liabilities would be understated or premiums would be undercharged, both would distort the insurer’s true financial position and lead to liquidity or even solvency problems. Under-pricing, unforeseen or inadequately understood events and insufficient reinsurance are all examples of technical risks;
- On the asset side, insurers face market risk, credit risk and to a lesser degree, liquidity risk;
- Other risks include legal and operational risks.

c) The candidate is expected to demonstrate knowledge and understanding on the duties of agent to principal

- Duty to comply with the agency agreement
- Personal performance;
- Duty of care;
- Fiduciary duty (holding in trust): the agent has to act in good faith and in the interest of the principal. it requires that the agent:
 - Avoid conflict of interest;
 - Disclose anything that may be relevant to the principal’s interest;
 - Not personally profit from the information or opportunities as a result of the agency relationship;
 - Not compete with the principal.

d) The candidate is expected to demonstrate knowledge and understanding on the consideration for having a valid contract

- The contract is valid because consideration was taken into consideration;
- The law will regard the consideration as adequate if the parties have agreed to the exchange.
- The requirement of legally sufficient consideration is therefore not at all concerned with whether one party received disproportionately more or less than he gave or promised to

give. Such facts however may be relevant to the availability of defense such as fraud, duress or undue influence or certain remedies such as specific performance.

- The provisional draft was clear on the issue of adequacy of consideration contemplated in article 35 of the voted law: If the requirement of consideration is met, there is no additional requirement of:
 - a gain, advantage, or benefit to the promisor or a loss, disadvantage or detriment to the promisee,
 - equivalence in the values exchanged; or
 - mutuality of obligation.

e) The candidate is expected to demonstrate knowledge and understanding on the offer and acceptance in formation of contract

- An offer confers upon the offeree a power of acceptance which continues until the offer terminates:
 - Lapse of time: “The offeree’s power of acceptance is terminated at the time specified in the offer, or if no time is specified, at the end of a reasonable time
 - Rejection of an offer: An offeree is at liberty to accept the offer as he sees fit;
 - Revocation: The offeror generally may cancel or revoke an offer at any time prior its acceptance;
 - Counteroffer: A counteroffer is an offer made by an offeree to his offeror relating to the same matter as the original offer but on terms or conditions different from those contained in the original offer
 - Death or incompetency: The death or incompetency of either the offeror or the offeree ordinarily terminates an offer
- It was held that Mr. Mugwaneza’s first email was not a counter-offer but only an enquiry, so a binding contract was made by the Mr. Mugwaneza’s second email while it was reached after the contract was already made.

QUESTION FIVE

Marking guide

Sub question	Criteria	Marks
(a)	1 mark for the position well stated and 2 marks for the any condition well stated for the maximum marks of 6	6
(b)	1 mark for the valid explanation of the elements for identifying a person	7
(c)(i)	1 mark for the position and 1 mark for the explanation well provided	2
(c)(ii)	1 mark for any valid difference between negotiation and litigation	5
Total for question 5		20

Model answers

a) The candidate is expected to demonstrate knowledge and understanding on the liability for acts committed by others

- Yes, Mrs. Umurungi is liable to repair the damages caused by her daughter Akaliza as it is going to be motivated;
- Conditions for this liability to exist, namely:
 - The damage must be caused by the child;
 - The child must be residing with the parent;
 - The damage must be caused by the personal act of the child.

b) The candidate is expected to demonstrate knowledge and understanding on the elements for identifying a person in Rwanda

- a person is identified by his/her name, origin, sex, residence and domicile;
- There are legal effects related to gender and age: marriage is only allowed between two persons of different sexes and the incapacity of a person of minor age;
- Name is a term used to specify a person in his/her social and legal life in exercising his/her rights and fulfilling his/her duties. The name is characterised by the following three elements: immutability, imprescriptibility and unavailability;
- The domicile of a person is a place where he/she has his/her principal establishment, and where he/she can possibly be reached at any time either directly or through an intermediary, or where he/she is registered;
- A person's residence is "a place where a physical person is habitually based". It is actually the permanent place where a person lives;
- Civil status: The person's status is composed of political, familial, and individual elements:

- The political elements (or the political status) determine the legal status of a person towards the national community. Hence, nationals (or citizens) are distinguished from foreigners within the national community; and foreigners are not systematically accorded similar political rights as citizens. Citizenship gives the right to participate in public life and enables him/her to take part in institutions exercising political power within the state;
- Familial elements of the person's status determine his/her position vis-à-vis his/her family members. The legal status of a person confers upon him/her rights and obligations. The legal status of a person depends on his/her state of a spouse, father, child, brother or sister, married or single, aunt or uncle, grandmother or grand-father, cousin, brother-in-law or sister-in-law;
- Individual elements of a person's status depend on factors such as age, gender, and mental state. Such elements influence the person's capacity of exercising his/her rights.

c)

i) The candidate is expected to demonstrate knowledge and understanding on the alternative dispute resolution especially negotiation

- DNMQ unlimited company objection is valid because the agreement between parties becomes a law between them and therefore, they have to respect it. As it was agreed by the parties, they have to respect it;

ii) The candidate is expected to demonstrate knowledge and understanding on the difference between negotiation and litigation

- Negotiation is win-win situation while litigation is win-lose situation;
- Negotiation requires the parties only while litigation requires third party to try the case;
- Negotiation requires the cost to parties while litigation, one of the parties will bear the costs;
- Litigation, on the other hand, is a formal legal process in which the disputing parties bring their dispute before a court or a neutral arbitrator to obtain a resolution when they have failed to reach an agreement through negotiation;
- Any other valid difference between negotiation and litigation.

QUESTION SIX

Marking guide

Sub question	Criteria	Marks
(a)(i)	1 mark for any valid definition of a property	1
(a)(ii)	1 mark for any difference between patrimonial rights and extra patrimonial right for the maximum marks of 2 and 1 mark for any example of patrimonial rights or extra patrimonial right for the maximum marks of 2	4
(a)(iii)	1 mark for any link between a patrimony and the person well provided	5
(b)(i)	2 marks for any definition of the material source of law well provided	2
(b)(ii)	1 mark for any material source of law listed for the maximum of 3 marks and 1 mark for any explained well source of law for the maximum of 3 marks	6
(b)(iii)	1 mark for any value of material source of law explained	2
Total for question 6		20

Model answers

a)

i) The candidate is expected to demonstrate knowledge and understanding on the definition of a property

- anything useful that satisfies the material needs of man or simply a good;
- the thing with respect to which legal relations between persons exist and sometimes to denote the legal relations;
- legal relations between persons with respect to a thing;
- objects that may be the subject of ownership - both physical objects capable of being reduced to possession and such intangible items as goodwill;
- any other valid definition of a property.

ii) The candidate is expected to demonstrate knowledge and understanding on the difference between patrimonial rights with extra-patrimonial rights

- Patrimonial right is the right of ownership or the right to claim like the right of the landlord to claim his rent for the house he owns;
- Patrimonial rights are always of Economic value and always gauged in terms of money. They have an exchange value: they can be acquired by the new owner mainly through their exchange for other rights;

- They can be transmitted to inheritors and to the legatees of their owner (or holder): they can be seized by their creditors; they are stricken by prescription whether acquisitive or extinctive one;
- Examples of patrimonial rights are real rights;
- Extra patrimonial rights are by considering the direct object of these rights, one can say that they are not of Economic value;
- For example, the right to acquire natural parenthood to a person, parents' rights over the "person and property of their child (attributions of the parental authority), the right of an author of a book to decide to publish it or not we call these extra-patrimonial rights as opposed to patrimonial ones whose direct object or reason is to ensure the protection of the pecuniary or monetary value and which have, within themselves, the monetary value;
- Family rights (e.g. parental authority) are extra-patrimonial rights. In all legal systems, family life (rights) will ensure the satisfaction of sexual needs, to oversee the duty to procreate, the education of the children and to ensure that the life together as spouses flourishes;
- Each person in this family life enjoys and is a creditor to that right, but from which, no economic gain is waited for;
- extra- patrimonial rights are not seized and are not transmissible to the heirs or legatees of their holder, creditors can benefit from them and such rights are imprescriptible, whether acquisitive or extinctive prescription

iii) The candidate is expected to demonstrate knowledge and understanding on the link between a patrimony and the person

- Only persons can have patrimony. You cannot think of patrimony without thinking of a person to whom this patrimony is attached;
- Each person necessarily has patrimony, because he/she is able to have the rights and obligations;
- The patrimony remains attached to the person as long as his personality is still valid;
- It cannot therefore be transferred (intransmissible entre vifs). A person can transfer some of the rights which he possesses over something e.g. his rights of ownership of an immovable, but the acquirer acquires the right transferred, not the patrimony;
- A person cannot have more than one patrimony. Like the personality, patrimony cannot be divided. What is divided or transferred is the right(s).

b)

i) The candidate is expected to demonstrate knowledge and understanding on the definition of material source of law

- the sources of inspiration of law. In other words, it is what is at the origin of the legal provision;
- There are, for example, historical sources.

ii) The candidate is expected to demonstrate knowledge and understanding on the various material source of law

- Social standards: the 'right' very often endeavors to re transcribe social rules to transform them into legal provisions. Example: the question of the homosexual couples and its legal recognition: gradually society admits the existence of the homosexual couples and more and more reserves a legal framework for them. The right is not always in phase with society, there can sometimes be a rather long time between the evolution of manners and the evolution of the laws (e.g. 1975 only: lifting of the prohibition of abortion);
- The economic theory: More and more economic science takes importance in our society and more and more the right takes as a starting point the economic theory for tax or revenue duty, the environmental right, etc;
- Religions: they play a rather weak and indirect role, today in France, primarily through the historical tradition. It is not the case in other countries of the world (p. ex.: Muslim countries).

iii) The candidate is expected to demonstrate knowledge and understanding on the value of material source of law

- The material sources are, themselves, never obligatory. They inspire the legal provisions, but they are not themselves legal provisions;
- They can be however taken into account to interpret a legal provision and they can clarify the direction.

QUESTION SEVEN

Marking guide

Sub question	Criteria	Marks
(a)	1 mark for any purpose of law well explained	5
(b)	1 mark each for any legal system mentioned in the case study for maximum marks of 2 and 1 mark for any difference well provided for the maximum marks of 3	5
(c)	1 mark each for any source of law well listed	5
(d)	1 mark for the position well explained and 1 mark for listing and explaining any type of agent	2
(e)	1 mark for any category of land well listed and explained	3
Total for question 7		20

Model answers

- a) The candidate is expected to demonstrate knowledge and understanding on the purpose of the law**

What the law does, in attempting to prevent and resolve conflict in society, is to:

- control social relations and behavior;
- provide the machinery and procedures for the settlement of disputes;
- preserve the existing legal system;
- protect individuals by maintaining order;
- protect basic freedoms;
- provide for the surveillance and control of official action;
- recognize and protect ownership and enjoyment of the use of property;
- provide for the redress (compensation) of harm;
- reinforce and protect the family;
- facilitate social change.

- b) The candidate is expected to demonstrate knowledge and understanding on the major legal systems**

- The legal systems that are mentioned in the case study are common law system for Uganda and civil law system for Rwanda;

- Common law system is a judge made law or Precedent-based system while civil law system adopted the legal technique of condition;
 - the legal rule in the common law system is one which seeks to provide the solution to the case in hand. It does not seek to formulate a general rule of conduct while for the civil law system the legal rule seeks to formulate a general rule of conduct as opposed to address the case in hand;
 - in common law system is adversarial while in civil law system is inquisitorial;
 - in common law system, it is allowed cross examination while it is not allowed in civil law system.
- c) The candidate is expected to demonstrate knowledge and understanding on the hierarchy source of law of Rwanda**

The hierarchy of law is

- Constitution;
- Organic law;
- International treaties and agreements ratified by Rwanda;
- Ordinary law;
- Orders and regulations provided for by a law.

d) The candidate is expected to demonstrate knowledge and understanding on the types of agency

- Yes, the way Mr. B worked with CMGD Ltd is allowed in agency because it is either express or implied agent;
- There are different types of agents namely:
 - Express or implied agents: An express agent is one who is appointed verbally or by writing. An implied agent is one whose appointment is to be inferred from the conduct of the parties;
 - General, special or universal agents: A general agent is one who is employed to transact generally all the business of the principal in regard to which he is employed. A special agent has only authority to do some particular act or represent his principal in some particular transaction. A universal agent is one who is authorized to transact all the business of his principal of whatever kind and to do all the acts which the principal can lawfully do and can delegate;
 - Agent or Sub –Agent: An agent derives his authority directly from the principal. A sub–agent derives his authority from the agent who has been appointed to do the act. One broad classification of agents is Mercantile or commercial agents and non-Mercantile or non-Commercial agents;
 - Non-Mercantile agents: Non–Mercantile agents include counsel, solicitor, guardian, promoter, wife, receiver, insurance agent, etc.

e) The candidate is expected to demonstrate knowledge and understanding on the different categories of land

- Land in Rwanda is classified into two categories: urban and rural land and individual land and public land.

- Urban land is a land which is confined within boundaries of towns or cities established by a Presidential Order while rural land Rural is considered as land that is not defined by a Presidential Order as urban land;
- Individual land is comprised the land acquired through custom or written law. That land has been granted by purchase, donation, inheritance, succession, ascending sharing, and exchange or through sharing. The law governing land offers equal protection to rights over land resulting from all channels. While public land is consisted of land in public and private domain of State, land belonging to public institutions and land that belongs to local authorities whether being in their public domain or in their private domain. The State may donate to any public institution or local authority its land reserved for public or private domain. Public institutions or local authorities may also acquire land by purchasing it or by donation from individuals or associations, and that land shall fall under their private or public domain. The State may donate to any public institution or local authority its land reserved for public or private domain.
- Basing on the case study, Mr. Mukama should accept the expropriation for public interest because individual land may return to the hands of the states upon payment of fair compensation.

END OF MARKING GUIDE AND MODEL ANSWERS