



CERTIFIED PUBLIC ACCOUNTANT
INTERMEDIATE LEVEL EXAMINATIONS
F1.2: INTRODUCTION TO LAW
DATE: WEDNESDAY, 30 NOVEMBER 2022
MARKING GUIDE AND MODEL ANSWERS

Marking guide

Marks

QUESTION ONE

(a) i) Explain From the case scenario above what is required in order for the law passed by parliament to be obligatory (5Marks) =1mark for explaining what is obligatory and 1 mark each for any 4 explanation

- In principle, the law is compulsory. However, the intensity of the compulsoriness differs depending on the prohibitive rule or superlative rule. 1
- Prohibitive rules are those rules which are binding overall and no one can turn around them. E.g., Tax laws while the superlative rules leave room to the persons to turn around them. 1
- They are only binding if the parties did not decide. They leave the room to the will of the parties (art. 64 of the Law governing contracts 2011 in Rwanda) and in general they supplement to the silence (inaction) of the parties. 1

Four types of rules are reputed to be prohibitive rules:

- They are some cases where the law contains in itself an indication of prohibitive nature, e.g., ...any inconsistent agreement is void (art. 305 CC.B.III); 1
- Must also be considered prohibitive the provisions relating to public policy and morality, e.g., criminal law, laws relating to sexual behavior, laws relating to the respect of natural person. 1
- Law organizing the conditions for legal acts, e.g., see art. 7 of the Law governing contracts in Rwanda 2011. 1
- Protecting rules of a defined group of persons, e.g., law relating to the protection of the child, the woman, Law governing labor in Rwanda 2009. 1

Maximum Marks

5

ii) State three characteristics of law and explain any two of those characteristics. (5 Marks)

=3marks for 3 characteristics,4 explanations for any 2 characteristics for 0.5 marks

- The law is general. The law is to be respected. It must be observed even by the persons who did not vote for it. 1
- The legal rule is a norm whose obligatory force is guaranteed by the actual intervention of the sanctions from the public authority. 1
- These include civil sanctions which aim at protecting the private interests of the persons, criminal sanctions protecting the society and disciplinary sanctions aiming at adjusting the conduct of the employees. 1
- The law is general. The law is applicable to all 1
- Individual consideration is not taken into consideration and once the persons are individually considered, the law is applicable to this group in an abstract way. 1

- The law is oriented to the common good. The law protects the common good. It deals with the economic, cultural and social development of the members of the society. 1

Maximum Marks 5

(b) (i) Identify the legal sanction applied in the case scenario above and explain the rationale of adopting the above legal sanction (5Marks) =1mark for identifying the sanction and 1 mark each for any 4 justification for the application of the sanction

- Civil sanction based on the contractual obligation 1
- Compliance with the rule of law in all aspects of life of people 1
- Civil sanctions concern violations of a law which protects private interests. 1
- When an act is committed and it qualifies a civil wrong susceptible of causing damages 1
- A remedy may be defined by the court or the persons themselves may define the mode of reparation. 1

Maximum Marks 5

ii) Explain the legal sanction(s) that should apply in this scenario and why. (5 Marks) =2marks for identifying the 2 sanctions and 3marks for any 3 explanation of the 2 sanctions

- Disciplinary sanction for different opinions leading to public altercation 1
- 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. 1
- These sanctions range from the warning, temporary suspension and in extreme cases the exclusion from service. 1
- Criminal sanction for fighting resulting to broken limb 1
- 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. 1
- Penalties in Rwanda for example in case of a criminal conduct (offense) range from fine, community service to imprisonment. 1

Maximum Marks 5

Total Marks 20

Model Answers

(a) i) The candidate should demonstrate clear understanding of the sources of Rwanda and its hierarchy

Law is obligatory

- In principle, the law is compulsory. However, the intensity of the compulsoriness differs depending on the prohibitive rule or superlative rule.
- Prohibitive rules are those rules which are binding overall, and no one can turn around them. E.g., Tax laws while the superlative rules leave room to the persons to turn around them.
- They are only binding if the parties did not decide. They leave the room to the will of the parties (art. 64 of the Law governing contracts 2011 in Rwanda) and in general they supplement to the silence (inaction) of the parties.

Four types of rules are reputed to be prohibitive rules:

- They are some cases where the law contains in itself an indication of prohibitive nature, e.g., ...any inconsistent agreement is void (art. 305 CC.B.III);
- Must also be considered prohibitive the provisions relating to public policy and morality, e.g., criminal law, laws relating to sexual behavior, laws relating to the respect of natural person.
- Law organizing the conditions for legal acts, e.g., see art. 7 of the Law governing contracts in Rwanda 2011.
- Protecting rules of a defined group of persons, e.g., law relating to the protection of the child, the woman, Law governing labor in Rwanda 2009.

ii) The candidate should demonstrate good understanding of the characteristic of law

- The law is general. The law is to be respected. It must be observed even by the persons who did not vote for it.
- The legal rule is a norm whose obligatory force is guaranteed by the actual intervention of the sanctions from the public authority.
- These include civil sanctions which aim at protecting the private interests of the persons, criminal sanctions protecting the society and disciplinary sanctions aiming at adjusting the conduct of the employees.
- The law is generally applied. The law is applicable to all
- Individual consideration is not taken into consideration and once the persons are individually considered, the law is applicable to this group in an abstract way.
- The law is oriented to the common good. The law protects the common good. It deals with the economic, cultural and social development of the members of the society.

(b) i) The candidate should demonstrate deep understanding of legal sanctions and their basic features

- ✓ The law is Authoritative
- The law is to be respected. It must be observed even by the persons who did not vote for it.
- The legal rule is a norm whose obligatory force is guaranteed by the actual intervention of the sanctions from the public authority.
- These include civil sanctions which aim at protecting the private interests of the persons, criminal sanctions protecting the society and disciplinary sanctions aiming at adjusting the conduct of the employees.
- ✓ **The law is General**
- The law is applicable to all.
- Individual consideration is not taken into consideration and once the persons are individually considered, the law is applicable to this group in an abstract way.
- ✓ **The Law is Oriented to the Common Good**
- The law protects the common good. It deals with the economic, cultural and social development of the members of the society.

ii) The candidate should demonstrate good understanding of the types of legal sanctions

- Disciplinary sanction for different opinions leading to public altercation
- 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.
- Criminal sanction for fighting resulting to broken limb
- 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.

QUESTION TWO

(a) i) Explain any four general principles of administrative law which can address the issues raised from the statement above (8Marks)=2marks each for any 4 well explained principles
General principles of Administrative Law are:

- Principle of equality of the users of public service or equality of users' rights which means citizens have equal right to access the public service. 2
- Principle of continuity and regularity in service's provision which means the public service runs continuously and cannot be halted or stopped merely because the servant is not available. 2
- Principle of fairness of public service which means any public service must be fair. 2

- Principle of adaptation which means the administration, in providing services to the people must adapt to changes. 2
- Principle of legality which means the decisions of the administration must be legal. 2

Maximum Marks 8

(b) i) From the statement above explain the three categories of means of administration leading to conflict. (6 Marks) =2marks each for the 3means well explained

- Legal Means 2
- Material Means 2
- State Personnel 2

Maximum Marks 6

ii) Write short notes on the concept of separation of powers under administrative law(6Marks) =1mark each for 3 branches of government and 1 mark each for any 2 explanation on the working of the three branches,1 mark for complimenting each other

The Government of Rwanda is divided into three branches:

- Legislative Branch 1
- Executive Branch 1
- Judicial Branch 1
- The executive branch is headed by the president. The president and the Prime Minister are the only nationwide office holders. 1
- Each branch has unique powers. 1
- Each branch was intended to keep the others in check 1
- All branches must complement each other 1

Maximum Marks 6

Total marks 20

Model Answers

(a) i) The candidate should demonstrate knowledge of administrative law specifically the general principles of administrative law

- Principle of equality of the users of public service or equality of users’ rights which means citizens have equal right to access the public service.
- Principle of continuity and regularity in service’s provision which means the public service runs continuously and cannot be halted or stopped merely because the servant is not available.
- The consequence of this principle is that the service, duties and obligations of the State are intrinsically interlinked and the obligations of the past Government are repaid by the Government in place
- Principle of fairness of public service which means any public service must be fair.
- Principle of adaptation which means the administration, in providing services to the people must adapt to changes.

- Principle of legality which means the decisions of the administration must be legal

(b) i) The candidate should demonstrate clear understanding of the various legal means of administration.

- **Legal means:** These are the acts posed by the administration in the context of performance of the mission assigned to it by the law.
- They may include orders (Presidential order, PM's order, Ministerial order), regulation (National Bank of Rwanda regulations, Rwanda Utilities Regulatory Authority regulations), instructions (Ministerial instructions, Mayor of the District instructions, etc.) and decisions.
- **Material means:** this concerns the public property which is divided into two categories i.e., property in the public domain of the State which is not transferrable (extra commercium) and property in the private domain of the State which are transferrable/alienable (in commercium).
- **State personnel:** these are State employees under statutes.

ii) The candidate should demonstrate understanding of the concept of separation of powers

The Government of Rwanda is divided into three branches:

- Legislative Branch
- Executive Branch
- Judicial Branch
- The executive branch is headed by the president. The president and the Prime Minister are the only nationwide office holders.
- Each branch has unique powers.
- Each branch was intended to keep the others in check
- All branches must complement each other

QUESTION THREE

(a) (i) Explain any four features/characteristics of Arbitration. (6Marks) =1.5marks each for any 4 characteristics well explained

Features/characteristics of arbitration.

- The agreement to arbitrate; 1.5
- The choice of arbitrators; 1.5
- The decision of the arbitral tribunal; 1.5
- The enforcement of the award. 1.5

Maximum Marks

6

ii) Define the term “arbitration” and discuss briefly those matters that are not permissible for arbitration by the law governing arbitration in Rwanda. (4Marks) =3 for the 3 matters and 1 mark for explaining them

- Matrimonial causes; 1
- Matters relating to status; 1
- Criminal case 1
- Explanation 1

Maximum Marks 4

(b) i) Outline any six circumstances in which foreign nationals can be sued in the Rwandan courts (6Marks) =1 mark each for any 6 circumstances

Foreign nationals may be sued in Rwandan courts: If

- They agree to be tried in Rwanda; 1
- The contract from which the dispute arises was concluded, executed or must be executed in Rwanda; 1
- The case relates to a succession opened in Rwanda; 1
- The case relates to the application for the court order to validate or lift seizures carried out in Rwanda or any other application for interim or conservatory measures; 1
- The claim is connected to another case that is already pending before a Rwandan court; 1
- They seek execution in Rwanda of court decisions rendered or authentic instruments issued abroad; 1
- The case relates to commercial bankruptcy resulting from dishonest management and such bankruptcy is opened in Rwanda; 1
- There are several defendants, one of whom has domicile or residence in Rwanda; 1
- A ship or vessel subject to prosecution for an act committed in foreign waters is found in national waters at the time of issuance of the notice to appear; 1
- An aircraft subject to prosecution for an act committed in a foreign air space is found in the Rwandan air space at the time of issuance of the notice to appear. 1

Maximum Marks 6

(ii) Outline any four jurisdictions of primary courts in the first instance on civil matters in Rwanda (4 Marks) 1 mark for any 4 jurisdictions outlined

- ¹⁰ Disputes between physical and non-governmental entities or corporations whose monetary value does not exceed twenty million Rwandan francs (FRW 20,000,000); 1

2° Cases relating to movable property of more than three million Rwandan francs (FRW 3,000,000), but which does not exceed twenty million Rwandan francs (FRW 20,000,000) and those relating to succession in respect thereof;

3° Cases relating to immovable property other than land used for agriculture and livestock of a value of more than three million Rwandan francs (FRW 3,000,000), but which does not exceed twenty million Rwandan Francs (FRW 20,000,000) and succession in respect thereof as well as disputes between the emphyteutic lessee and the so-called landowner with no certificate;

4° All commercial matters involving amounts of not more than five million Rwandan francs (FRW 5,000,000);

5° Cases relating to the status of persons and family.

Maximum Marks

Total Marks

Model Answers

(a) i) The candidate should demonstrate knowledge on arbitration as an ADR

Features/characteristics of arbitration.

- **The agreement to arbitrate;** An agreement by parties to submit to arbitration any dispute or difference between them is the starting point of the process in both national and international arbitration. If there is to be a valid arbitration, there must first be a valid agreement to arbitrate. Arbitration is a contractual process in the fact that it is based on an agreement between the parties
- **The choice of arbitrators;** One of the features of that distinguishes arbitration from litigation is the fact that the parties to an arbitration are free to choose their own tribunal. Sometimes, it is true; this freedom is unreal, because the choice may be delegated to a third party such as an arbitral institution. However, where the freedom exists, each party should make sensible use of it. A skilled and experienced arbitrator is one of the key elements of a fair and effective arbitration.
- **The decision of the arbitral tribunal;** It is not uncommon for a settlement to be reached between the parties in the course of arbitral proceedings. However, if the parties cannot resolve their dispute, the task of arbitral tribunal is to resolve the dispute for them by making a decision, in the form of a written award.
- **The enforcement of the award.** Once an arbitral tribunal has made its award, it has fulfilled its function and its existence comes to an end. The tribunal's award, however, gives rise to important and lasting legal consequences. Although it is the result of a private arrangement and is made by a private arbitral tribunal, the award constitutes a binding decision on the dispute

between the parties. If it is not carried out voluntarily, the award may be enforced by legal proceedings both locally (that is to say, in the place in which it was made) and internationally.

ii) Arbitration is not permissible in following matters:

- Matrimonial causes;
- Matters relating to status;
- Criminal cases

b) i) The candidate should demonstrate knowledge of how foreign nationals may be sued in Rwandan courts:

- They agree to be tried in Rwanda;
- The contract from which the dispute arises was concluded, executed or must be executed in Rwanda;
- The case relates to a succession opened in Rwanda;
- The case relates to the application for the court order to validate or lift seizures carried out in Rwanda or any other application for interim or conservatory measures;
- The claim is connected to another case that is already pending before a Rwandan court;
- They seek execution in Rwanda of court decisions rendered or authentic instruments issued abroad;
- The case relates to commercial bankruptcy resulting from dishonest management and such bankruptcy is opened in Rwanda;
- There are several defendants, one of whom has domicile or residence in Rwanda;
- A ship or vessel subject to prosecution for an act committed in foreign waters is found in national waters at the time of issuance of the notice to appear;
- An aircraft subject to prosecution for an act committed in a foreign air space is found in the Rwandan air space at the time of issuance of the notice to appear.

ii) The candidate should demonstrate understanding of jurisdictions of primary courts in the first instance on civil matters in Rwanda

1^o Disputes between physical and non-governmental entities or corporations whose monetary value does not exceed twenty million Rwandan francs (FRW 20,000,000);

2^o Cases relating to movable property of more than three million Rwandan francs (FRW 3,000,000), but which does not exceed twenty million Rwandan francs (FRW 20,000,000) and those relating to succession in respect thereof;

3^o Cases relating to immovable property other than land used for agriculture and livestock of a value of more than three million Rwandan francs (FRW 3,000,000), but which does not exceed twenty million Rwandan Francs (FRW 20,000,000) and succession in respect thereof as well as disputes between the emphyteutic lessee and the so-called landowner with no certificate;

4° All commercial matters involving amounts of not more than five million Rwandan francs (FRW 5,000,000);

5° Cases relating to the status of persons and family.

QUESTION FOUR

(a) Examine the issues raised in the above case study and advise Peter Munyapeta and Rachael Uwimana on their respective obligation under this contract(4Marks) =1 mark each for offer and acceptance and 1 mark each for the 2 illustrations

- Rachael Uwimana, the buyer and Peter Munyampeta the seller over offer and acceptance 1
- The traditional test for the contract: the quotation of the price was an offer subject to terms and conditions and the order by Rachael Uwimana constituted a counter-offer which Peter Munyapeta accepted. 1
- However, the court also lays out a "better way" to analyze such situations applying an objective test of the conduct and language. Generally (but not always) the last of the forms (the "last shot") is the victor and an analysis of all the documents in this case makes it clear that the contract was on the buyer's terms. 1
- The court may either reconcile the documents, or ignore the documents and replace the terms by reasonable implications. 1

Maximum Marks 4

(b) Does Butare James promise constitute a binding contract? Explain the reasoning of the court regarding Mbabazi Grace's claim (4 Marks) = 1 mark for the response and reason and 1 mark each for any 3 explanations of the response.

- No. You can't contract into a gift. Mbabazi Grace didn't offer anything in return. There was no consideration. 1
- Had Butare James made a request for Mbabazi Grace to do something in exchange for the donation, such as name a building after Butare James, there would be consideration, and thus, a valid contract. 1
- Acting on gift does not constitute consideration for it. We do not want to easily turn a gratuitous promise into contracts. 1
- This gratuitous promise did not receive any consideration, and therefore that it is not a binding agreement. Butare James did not promise to pay the money for any specific reason; he was not getting a specific benefit out of it. 1
- Unless the promisor gets some specific benefit from a gratuitous promise, then there is no consideration. 1
- If he had donated money specifically for the construction of a certain new building this could be consideration; but no such purpose is found in this case and therefore there is no binding agreement. 1

Maximum Marks 4

(c) Does William Tweddle have a standing to sue for enforcement of the contract? (4Marks)

=1 mark for the response and reason and 1 mark each for any 3 explanations

- No. Love and affection as the basis of consideration (stranger to consideration) 1
- The 3rd party cannot successfully sue. 1
- There was precedent that a stranger to the consideration of a promise can still have an action if the relationship is close enough. Despite this precedent, it is maintained that the current position is that no stranger to the consideration can take action, even if it was for his benefit. 1
- The court examines whether there was consideration from the son and holds that natural love and affection (from the marriage) was not sufficient consideration. 1
- The court held that it would be "a monstrous proposition" if an individual would be able to sue for a contract but not be able to be sued under it. 1
- Natural love and affection are not sufficient consideration for an action. 1

Maximum Marks 4

(d) i) Did the purchaser have the right to unilaterally waive the condition precedent? (4

Marks) = 1 mark for the response and reason and 1 mark each for any 3-explanation elaborating the response

- The purchaser had no right to waive the annexation condition which was a true condition precedent. 1
- The obligations, on both sides, depend upon a future uncertain event, the happening of which depends entirely on the will of a third party – the Village Council. 1
- This is a true condition precedent -- an external condition upon which the existence of the obligation depends. 1
- Until the event occurs, there was no right to performance on either side. The parties did not promise that it would occur. 1
- The purchaser now seeks to make the vendor liable on his promise to convey in spite of non-performance of the condition and this is to suit his own convenience only. ...Waiver has often been referred to as a troublesome and uncertain term in the law but it does at least presuppose the existence of a right to be relinquished. 1

Maximum Marks 4

ii) Can a defendant rescind a contract because of a misrepresentation? (4 Marks) = 1 mark for the response and reason and I mark each for any 3 explanations

- The defendant cannot rescind the contract because he simply should have used due diligence and sought more information before purchasing the premises. 1
- However, the only limitation on suing for a misrepresentation is the limitation period, which starts when the fraud reasonably should have been discovered. 1
- A representation was made in an attempt to induce a party to enter into a contract, and the contract was in fact formed, then there is a presumption that the representation was relied upon. 1
- This can only be refuted by proving that the party hearing the representation had definite knowledge to the contrary, or by explicit evidence that they did not rely on the representation. 1
- Where you have neither evidence that he knew the facts showing that the statement was untrue, or that he did anything to show that he did not rely upon the statement, the inference remains that he relied upon the statement as being a material statement (condition) in the contract. Therefore, its being untrue is sufficient ground for the rescission of the contract. 1

Maximum Marks 4

Total Marks 20

Model Answers

(a) The candidate should demonstrate knowledge of the law of contract specifically on offer and acceptance

- Rachael Uwimana, the buyer and Peter Munyampeta the seller over offer and acceptance
- The traditional test for the contract: the quotation of the price was an offer subject to terms and conditions and the order by Rachael Uwimana constituted a counter-offer which Peter Munyapeta accepted.
- However, the court also lays out a "better way" to analyze such situations applying an objective test of the conduct and language. Generally (but not always) the last of the forms (the "last shot") is the victor and an analysis of all the documents in this case makes it clear that the contract was on the buyer's terms.
- The court may either reconcile the documents, or ignore the documents and replace the terms by reasonable implications.

(b) The candidate should demonstrate a good understanding on the formation of a contract

- No. You can't contract into a gift. Mbabazi Grace didn't offer anything in return. There was no consideration.
- Had Butare James made a request for Mbabazi Grace to do something in exchange for the donation, such as name a building after Butare James, there would be consideration, and thus, a valid contract.
- Acting on gift does not constitute consideration for it. We do not want to easily turn a gratuitous promise into contracts.

- This gratuitous promise did not receive any consideration, and therefore that it is not a binding agreement. Butare James did not promise to pay the money for any specific reason; he was not getting a specific benefit out of it.
- Unless the promisor gets some specific benefit from a gratuitous promise, then there is no consideration.
- If he had donated money specifically for the construction of a certain new building this could be consideration; but no such purpose is found in this case and therefore there is no binding agreement.

(c) The candidate should demonstrate knowledge on gratuitous agreements

- No. Love and affection as the basis of consideration (stranger to consideration)
- The 3rd party cannot successfully sue.
- There was precedent that a stranger to the consideration of a promise can still have an action if the relationship is close enough. Despite this precedent, it is maintained that the current position is that no stranger to the consideration can take action, even if it was for his benefit.
- The court examines whether there was consideration from the son and holds that natura love and affection (from the marriage) was not sufficient consideration.
- The court held that it would be "a monstrous proposition" if an individual would be able to sue for a contract but not be able to be sued under it.
- Natural love and affection are not sufficient consideration for an action.

(d) i) The candidate is expected to demonstrate knowledge on contract of sale of goods

- The purchaser had no right to waive the annexation condition which was a true condition precedent.
- The obligations, on both sides, depend upon a future uncertain event, the happening of which depends entirely on the will of a third party – the Village Council.
- This is a true condition precedent -- an external condition upon which the existence of the obligation depends.
- Until the event occurs, there was no right to performance on either side. The parties did not promise that it would occur.
- The purchaser now seeks to make the vendor liable on his promise to convey in spite of non-performance of the condition and this is to suit his own convenience only. ...Waiver has often been referred to as a troublesome and uncertain term in the law but it does at least presuppose the existence of a right to be relinquished.

ii) **The candidate is expected to demonstrate knowledge of aviating factors of a contract**

- The defendant cannot rescind the contract because he simply should have used due diligence and sought more information before purchasing the premises.
- However, the only limitation on suing for a misrepresentation is the limitation period, which starts when the fraud reasonably should have been discovered.
- A representation was made in an attempt to induce a party to enter into a contract, and the contract was in fact formed, then there is a presumption that the representation was relied upon.
- This can only be refuted by proving that the party hearing the representation had definite knowledge to the contrary, or by explicit evidence that they did not rely on the representation.
- Where you have neither evidence that he knew the facts showing that the statement was untrue, or that he did anything to show that he did not rely upon the statement, the inference remains that he relied upon the statement as being a material statement (condition) in the contract. Therefore, its being untrue is sufficient ground for the rescission of the contract.

QUESTION FIVE

(a)

(i) Explain any five exceptions to the position above on delegation of authority by the agent (5 Marks) = 1 mark each for any five exceptions well explained

- Where the duties of the agent do not require any skill or discretion, and can satisfactorily be performed by any one; 1
- Where the custom of the trade permits delegation; 1
- Where the principal knows that the agent intends to delegate; 1
- Where the nature of the business requires delegation; 1
- Where an emergency makes it necessary to delegate. 1

Maximum Marks

5

(ii) State whether the following statements are True or False (5 marks) =0.5 mark for every correct response

1. An agent is not different from a servant. False 0.5
2. A servant is different from an independent contractor. True 0.5
3. A minor may be an agent. True 0.5
4. A contract of agency may be created expressly but not impliedly. False 0.5
5. There is no privity of contract between a substituted agent and the principal. False 0.5
6. X, without Y's authority lends Y's money to Z. Afterwards Y accepts interest on the money from Z. Y's conduct does not imply a ratification of the loan. False 0.5
7. The act of the agent to be ratified must be valid in itself and not illegal. True 0.5

- | | | |
|---|------|-----|
| 8. A forgery of signature, though ratified, conveys no title. | True | 0.5 |
| 9. A person cannot ratify a part of the transaction. | True | 0.5 |
| 10. An agent who is guilty of misconduct in the business of agency is not entitled to any remuneration. | True | 0.5 |

Maximum Marks **5**

(b) i) From the facts of the case above outline and explain any two features/characteristics of insurance at play. (6 Marks) =2marks for identifying the features and 2 marks each for explaining the two features

- Insurable interest (1 mark for outline and 2 marks for explanation) 3
- Care (1 mark for outline and 2 marks for explanation) 3

Maximum Marks **6**

ii) Outline and explain any four such classes(4Marks) =2marks for outlining the 4 classes and 2 mark each for explaining the 4 classes

- Ordinary life insurance business, 1
- Industrial insurance business, 1
- Treasury bonds investment business, 1
- Any business carried on by the insurer as incidental to any class of business above mentioned. 1

Maximum Marks **4**

Total Marks **20**

Model Answers

a) i) The candidate should demonstrate knowledge of the contract of agency specifically on delegation of authority by the agent

- Where the duties of the agent do not require any skill or discretion, and can satisfactorily be performed by any one;
- Where the custom of the trade permits delegation;
- Where the principal knows that the agent intends to delegate;
- Where the nature of the business requires delegation;
- Where an emergency makes it necessary to delegate.

ii) **The candidate is expected to demonstrate sound knowledge on contract of agency and contract in general**

- An agent is not different from a servant. False
- A servant is different from an independent contractor. True
- A minor may be an agent. True
- A contract of agency may be created' expressly but not impliedly. False
- There is no privity of contract between a substituted agent and the principal. False
- X, without Y's authority lends Y's money to Z. Afterwards Y accepts interest on the money from Z. Y's conduct does not imply a ratification of the loan. False
- The act of the agent to be ratified must be valid in itself and not illegal. True
- A forgery of signature, though ratified, conveys no title. True
- A person cannot ratify a part of the transaction. True
- An agent who is guilty of misconduct in the business of agency is not entitled to any remuneration. True

b) i) **The candidate should demonstrate knowledge of the contract of insurance**

Insurable interest, just means that the subject matter of the contract must provide some financial gain by existing for the insured (or policyholder) and would lead to a financial loss if damaged, destroyed, stolen, or lost.

- The insured must have an insurable interest in the subject matter of the insurance contract.
- The owner of the subject is said to have an insurable interest until s/he is no longer the owner.

Care, Insurance contracts shouldn't be about getting free stuff every time something bad happens. Therefore, a little responsibility is bestowed upon the insured to take all measures possible to minimize the loss on the property.

ii) **The candidate should demonstrate knowledge of the contract of insurance**

• **Ordinary life insurance business**

Means the business of, or in relation to, the issuing of, or undertaking of liability to pay money on death (not being death by accident or specified sickness only) or on the happening of any contingency dependent on the termination or continuance of human life (either with or without provision for a benefit under a continuous disability contract), and includes a contract which is subject to the payment of premiums for term dependent on the termination or continuance of human life and any contract securing the grant of an annuity for a term dependent upon human life. **Ordinary life insurance business includes:** traditional life, term life, credit life, funeral and others.

- **Industrial insurance business**

Means the business of affecting assurances on human life, premiums in respect of which, are payable at intervals not exceeding two months in each case, to collectors sent by the insurer to each owner of a policy, or to his residence or place of work

- **Treasury bonds investment business**

Means the business of issuing bonds or endowment certificates by which a company, in return for subscriptions payable at periodic intervals, contracts to pay the bondholder a sum or series of sums at a future date, not being life assurance business but including sinking fund or capital redemption insurance business.

- **Any business carried on by the insurer as incidental to any class of business above mentioned.**

Business such as the management of collective pension funds and any other class of long-term insurance business that the Central Bank may determine.

QUESTION SIX

(a) i) A negotiable instrument is one, the property in which is acquired by anyone who takes it bonafide and for value notwithstanding any defects of the title in the person from whom he took it”

With the help of example/illustration explain the meaning of the above statement (6Marks)

= 1 mark for any 4 illustrations

- It shall be presumed that every negotiable instrument was made drawn, accepted or endorsed for consideration. 1
- Negotiable instrument means a written document which creates a right in favor of some person and which is freely transferable. 1
- Even if a negotiable (cheque) was stolen provided the person receiving it does not know that it is stolen then he is entitled to it. 1
- Provided further that he is taking instrument either as a payment for money owed due to him. 1

Maximum Marks

4

ii) **With the help of relevant examples discuss in detail any three characteristics of negotiable instruments (6 Marks) =2 marks each for any 3 characteristics well explained**

- Negotiability 2
- Short-term title 2
- Commitment to pay 2
- Monetary vlue 2

Maximum Marks

6

(b) With the help of any relevant example explain the two modes of negotiation (4marks) =2 marks for the 2 modes well explained

- Competitive mode 2
- Cooperative mode 2
- Organizational mode 2
- Attitudinal mode 2
- Personal mode 2

Maximum Marks

4

(c) With the help of relevant examples explain any four classes or types of endorsement (6Marks)=1.5 marks each for any 4 classes well illustrated

- Blank or general. 1.5
- Special or full. 1.5
- Partial. 1.5
- Restrictive. 1.5
- Facultative 1.5

Maximum Marks

6

Total Marks

20

Model Answers

(a) i) The candidate should demonstrate knowledge and understanding of negotiable instruments

- It shall be presumed that every negotiable instrument was made drawn, accepted or endorsed for consideration.
- Negotiable instrument means a written document which creates a right in favor of some person and which is freely transferable.
- Even if a negotiable (cheque) was stolen provided the person receiving it does not know that it is stolen then he is entitled to it.
- Provided further that he is taking instrument either as a payment for money owed due to him.

ii) The candidate should demonstrate knowledge and understanding of negotiable instruments with specific attention to characteristics of negotiable instruments

Features of negotiable instrument;

- 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. Negotiability, therefore, allows for more simplified and easy circulation.

- **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.

- **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.

- **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.

(b) The candidate should demonstrate knowledge and understanding of negotiable instruments specifically on negotiability

- **Competitive mode**

One party's loss is another party's gain. The gains achieved by one party are at expenses of the other.

- **Cooperative mode**

Here both parties seek to gain from the negotiation process. To do so, both parties seek the ways of doing so.

- **The organization mode**

Behind each negotiator there are many others in his organization. The negotiator may well have more difficulty negotiating with his organization than with the other side. Your job is to help the opponent negotiate with his organization.

- **The attitudinal mode**

Trust, friendship, goodwill, integrity, credibility, etc form the parts of this mode.

- **The personal mode**

One's personal ego, workload, and home commitment are the important issues to be considered while negotiating. You will improve your negotiation if you are aware of these issues concerning your opponent.

(c) The candidate should demonstrate knowledge and understanding of negotiable instruments specifically on modes of endorsement

Modes of endorsement

- **Blank or general.**

An endorsement is supposed to be blank or general endorsement when the endorser puts his unmistakable just on the instrument and doesn't compose the name of anybody to whom or to whose request the installment is to be made.

- **Special or full.**

A special Endorsement or full Endorsement is when the endorser, notwithstanding his mark, additionally notices the name of the individual to whom or to whose request the installment is to be made. There is a heading added by Endorsement to the individual indicated called the endorsee of the instrument who presently turns into its payee qualified to sue for the cash due on the instrument.

- **Partial.**

An endorsement is supposed to be a partial endorsement when the endorser indicates to move to the endorsee, just an aspect of the sum payable. In straightforward terms, support which permits moving to the endorsee an aspect of the sum payable is known as halfway underwriting.

- **Restrictive.**

Restrictive Endorsement tries to end the chief qualities of a Negotiable Instrument and seals its further debatability. This may sound somewhat unordinary, yet the endorsee is especially inside his privileges on the off chance that he so signs that its resulting move is limited. This forestalls the danger of unapproved individuals acquiring installment through misrepresentation or falsification and losing their cash.

- **Facultative**

Facultative Endorsement is an underwriting where the endorser defers some privilege to which he is entitled. For instance, the endorsee is subject to pull out of disrespect to the endorser, and typically inability to pull out will vindicate the endorser from his risk.

QUESTION SEVEN

(a) Citing Law N° 27/2021 of 10/06/2021 Governing Land in Rwanda and as a student of Introduction to Law explain to the district leadership the nature of land tenure given to Tumusimwe Alex by the government. Do you think Tumusimwe Alex acted within law by diversifying his business without the authority of the government? (6 Marks) =1 mark for the nature of tenure and 1 mark for the concession and 1 mark each for 4 well explained positions

- Emphyteutic lease; 1
- Lands are allocated by the State in form of emphyteutic lease and land concession 1
- A land concession is granted to an investor to whom a land has been conceded for strategic investment for agricultural use, livestock, forestry, tourism, social welfare activities, sports and leisure, mining and quarrying and scientific research activities. 1
- An investor to whom a land has been conceded for strategic investment has no right to sell, transfer or mortgage the land. 1
- However, he or she may sell, transfer or mortgage the concession rights on the property on that land in accordance with the land concession and the remaining land concession period. 1

Maximum Marks 6

(b) Explain any two rights on land provided by Law N° 27/2021 of 10/06/2021 Governing Land in Rwanda to Tumusimwe Alex as a foreign national (2marks) =1 mark each for the 2 rights well explained

- An emphyteutic lease; 1
- A land concession. 1

Maximum Marks 2

(c) Citing Law N° 27/2021 of 10/06/2021 Governing Land in Rwanda explain any four ways through which the rights in land can be transferred between persons (6Marks) =1.5 marks each for any 4 well explained ways

- Succession; 1.5
- Donation; 1.5
- Inheritance; 1.5
- Lease; 1.5
- Sale; 1.5
- Sub-lease; 1.5
- Exchange; 1.5
- Mortgage; 1.5

- Concession; 1.5
- Any other transfer means in conformity with conditions and methods provided for by laws.

Maximum Marks 6

(d) Citing Law N° 27/2021 of 10/06/2021 Governing Land in Rwanda explain briefly six fundamental principles governing land use in Rwanda (6Marks) =1 mark each for any 6 fundamental principles well explained

Article 55

- The land use and development must be administered and managed so as to contribute to the sustainable development for the benefit of current and future generations of Rwanda 1
- The land use and development must take into account gender considerations; 1
- The land use must help in minimizing the need for land development based on the excessive use of land, energy and natural resources; 1
- The planning of land use and development must prioritize a higher population density and multi-family residential settlements in an urban and rural areas; 1
- The land use must prevent urban sprawl, maximize mixed zoning and integrated land uses; 1
- The land use must consider all categories of land use. 1

Maximum Marks 6

Total Marks 20

Model answers

a) The candidate should demonstrate knowledge and understanding of the nature of land tenure in Rwanda

- ✓ Emphyteutic lease;
 - ✚ Lands are allocated by the State in form of emphyteutic lease and land concession
 - ✚ A land concession is granted to an investor to whom a land has been conceded for strategic investment for agricultural use, livestock, forestry, tourism, social welfare activities, sports and leisure, mining and quarrying and scientific research activities.
 - ✚ An investor to whom a land has been conceded for strategic investment has no right to sell, transfer or mortgage the land.
 - ✚ However, he or she may sell, transfer or mortgage the concession rights on the property on that land in accordance with the land concession and the remaining land concession period.

b) The candidate should demonstrate knowledge and understanding the rights attached to land tenure in Rwanda

- An emphyteutic lease;
- A land concession.

c) The candidate should demonstrate knowledge and understanding on how rights attached to land tenure in Rwanda can be transferred between persons

- Succession;

- Donation;
- Inheritance;
- Lease;
- Sale;
- Sub-lease;
- Exchange;
- Mortgage;
- Concession;
- Any other transfer means in conformity with conditions and methods provided for by laws

d) The candidate should demonstrate knowledge and understanding on the fundamental principles governing land use in Rwanda

- The land use and development must be administered and managed so as to contribute to the sustainable development for the benefit of current and future generations of Rwanda
- The land use and development must take into account gender considerations;
- The land use must help in minimizing the need for land development based on the excessive use of land, energy and natural resources;
- The planning of land use and development must prioritize a higher population density and multi-family residential settlements in an urban and rural areas;
- The land use must prevent urban sprawl, maximize mixed zoning and integrated land uses;
- The land use must consider all categories of land use.

END OF MARKING GUIDE AND MODEL ANSWERS