

COUNCIL OF LEGAL EDUCATION



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

COMMERCIAL LAW II

WEDNESDAY 24TH AUGUST, 2011

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 marks
- (c) All other questions carry 15 marks each

PLEASE TURN OVER

QUESTION ONE

- (a) What is a bill of exchange? {2 marks}
- (b) Discuss three similarities between a cheque, a promissory note, and a bill of exchange. {6 marks}
- (c) Under the Bill of Exchange Act, Cap. 27 of the Law of Kenya, a cheque is included under the definition of a bill of exchange. The definition is stated in section 3(1) of the Act as follows:
- “A bill of exchange is 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 a fixed or determinable future time a sum certain of money to or to the order of a specified person or to bearer.”
- (i) What are the notable differences between a cheque and the other types of bills of exchange? {4 marks}
- (ii) Explain the features of an ‘open cheque’ and a ‘crossed cheque’ {3 marks}
- (iii) Discuss the legal effect of ‘not negotiable crossing’ of a cheque. {3 marks}
- (d) There is no law that does not have underlying objectives. The Chattels Transfer Act, Cap 28 of the Laws of Kenya, does not expressly declare its objective. However, from the history of this Act, and even in some court decisions, one can gather the objective of this statute.
- (i) In your opinion, what two (2) reasons motivated or influenced the Legislature (Parliament) to enact the Chattels Transfer Act? {4 marks}
- (ii) Define the term ‘chattel’ and give three (3) different chattels under the Chattels Transfer Act. {3 marks}

QUESTION TWO

- (a) Define the term ‘bankruptcy’ {2 marks}
- (b) Bankruptcy law is designed in such a way that it is for the benefit of both the debtor and the creditor. Discuss how bankruptcy law meets the interest of the debtor and creditor and how it strikes a balance between these two competing interests. {5 marks}
- (c) State and explain four (4) acts of bankruptcy. {8 marks}

QUESTION THREE

- (a) Define the word ‘instrument’ as used in the Chattels Transfer Act, Cap 28 and explain the major parts of an instrument. {10 marks}