

Botswana College of Distance and Open Learning

**In Collaboration With
Zimbabwe Open University**

Diploma in Business Management

Supplementary Examination

in

Business Law

Time Allowed

3 Hours

General Instructions to Learners

1. This paper consists of five questions.
2. Question one is compulsory.
3. Attempt four questions in total.
4. All questions carry equal marks.
5. Marks will be awarded for well argued answers supported with statutory/case laws.

Question 1**[25 Marks]**

- (a) Explain how mistake affects *consensus ad idem*. (9 marks)
- (b) Explain when can the guardian's assistance be given. (4 marks)
- (c) "Communication of acceptance is said to be complete as against the proposer when it is put in the course of transmission to him so as to be out of the power of the acceptor"- Henthorne v Fraser (1892) 2 Ch. 27
Discuss the concept of acceptance in relation to letters and telephonic communication of acceptance. (12 marks)

Question 2**[25 Marks]**

- (a) Make a brief discussion of the courts in South Africa. (16 marks)
- (b) Discuss the concept of judicial precedent in the South African courts. (9 marks)

Question 3**[25 Marks]**

- (a) What is the effect of the following terms in a lease contract?
(i) *huur gaat voor koop*?
(ii) *placaat*? (10 marks)
- (b) David intends to conclude a sale agreement with Janet, but he does not know what course of action he is likely to take under common law if Janet, the seller, happens not to fulfill her part. Advise David as to the reliefs he may expect if such be the case. (15 marks)

Question 4**[25 Marks]**

- (a) Explain the duties an agent has under a contract of agency. (15 marks)
- (b) John and Alex carry on business as butchers in partnership. Unknown to John, Alex purchases on credit 100kg of rice from KTM wholesalers on the false representation that the rice is required by the firm. Rice is delivered the following day and on delivery Alex tells John that he has ordered the rice in the name of the partnership. John says nothing about this, but agrees to some of the rice being used in the shop for the shop assistants. John is now demanding that Alex had no authority to purchase the rice. Advise KTM wholesalers as to their chances of being paid by the partnership. (10 marks]

Question 5**[25 Marks]**

- (a) What purpose does a signature have on a cheque, and what effect do forged and unauthorised signatures have on a cheque? (20 marks)
- (b) Explain the liability of a surety in terms of a contract of suretyship. (5 marks)

End of Exam

Botswana College of Distance and Open Learning

In Collaboration With

Zimbabwe Open University

Diploma in Business Management

Sessional Examination, 2009

Business Law

Time Allowed

3 Hours

General Instructions to Learners

1. There are **six** questions in this paper.
2. Attempt **four** questions.
3. All questions carry equal marks.
4. Marks will be awarded for well-argued answers supported by relevant statutory/case law.

Question 1**[25 marks]**

- (a) The drawer and subsequent holders can make certain markings on a cheque, which affect the rights and duties on the cheque. Discuss four markings that are most common. (16 marks)
- (b) What is the effect of a forged signature? (9 marks)

Question 2**[25 marks]**

Discuss five types of special agents (25 marks)

Question 3**[25 marks]**

Justine bought a car from Gamaliel, which he later found to have a latent defect in it. Justine has come to you for advice. Advise Justine about the remedies available to him. Are there any exceptions against his remedies? Discuss.

(25 marks)

Question 4**[25 Marks]**

Discuss the duties and rights of partners. (25 marks)

Question 5**[25 marks]**

- (a) Where a tenant fails to fulfill his duty to pay, there are remedies available to the landlord. What are the remedies? (13 marks)
- (b) In case the landlord wishes to attach tenant's property what limitations is he likely to encounter? (12 marks)

Question 6**[25 marks]**

- (a) Briefly explain the distinction between legal and moral duties. Illustrate with examples. (10 marks)
- (b) Define each of the following rights and suggest an example for each:
- (i) Real rights. (5 marks)
 - (ii) Personality rights. (5 marks)
 - (iii) Industrial property rights. (5 marks)

End of Exam

Botswana College of Distance and Open Learning

In collaboration with

Zimbabwe Open University

Business Law
Course Code: D-BL 01

Sessional Examination, 2010

Time: 3 Hours

Total Marks: 100

Instructions to candidates

1. Answer **all** questions in Section A.
2. Answer any **three** questions in Section B.
3. Cite relevant Case Laws.
4. Start a new answer on a new page.

Section A – Compulsory**[25 Marks]****Question 1**

(10 Marks)

From the following indicate your answer as **true** or **false**

- (a) Suretyship is giving a creditor the right to get payment through other rights in case of non-payment.
- (b) A crossing on a cheque affects transferability of the cheque.
- (c) Partnership is formed by more than twenty people.
- (d) Goodwill is the reputation and connection of a business.
- (e) To execute a job, an agent should conflict his/her interest with the duty.
- (f) Maxim *huur gaat voor koop* means hire goes before sale.
- (g) Tacit renewal is when a landlord refuses a tenant to remain in the premises after expiring of the lease.
- (h) A notice handed to a credit receiver and obtaining a receipt or being posted by registered mail is a right to the credit grantor.
- (i) *Merx* is an article to be delivered.
- (j) A minor entering into a contract can be tacitly emancipated by the high court.

Question 2

(15 Marks)

In order to live in harmony, certain rules are laid down for people to follow and practice when interacting with others.

- (a) State and explain **two** types of rules which regulate the behavior and interaction of human beings. (4 marks)
- (b) Through society interaction, people normally acquire rights in a different manner. Analyse **four** types of such rights, which you may acquire as an individual. (8 marks)
- (c) Under breach of contract, explain the word '**repudiation**'. (3 marks)

Section B**[75 Marks]**Answer any **three** questions**Question 1**

(25 Marks)

- (a) As a landlord, address your tenant on the renewal of a lease agreement. (4 marks)
- (b) Illustrate the concept of '**hire goes before sale**'. (10 marks)
- (c) How would you terminate a lease agreement? (7 marks)
- (d) Elaborate the duties of a landlord. (4 marks)

Question 2

(25 Marks)

Peter and Joe have been running a partnership business for the past three years. Due to certain situations, they have decided to incorporate a private company and do away with the partnership. The two parties have approached you as a consultant for an advice on how to set up a company.

- (a) From your opinion advise Peter and Joe on **three** main advantages of a private company as compared to a partnership. (9 marks)
- (b) Peter and Joe are also debating whether to establish a close corporation instead of a private company. Elaborate to them on **four** internal relations of a close corporation. (8 marks)
- (c) State and explain **three** categories of mistake under consensus *ad idem*. (6 marks)
- (d) From your understanding explain what is meant by 'duress'. (2 marks)

Question 3**(25 Marks)**

You are a director who is normally busy. Therefore, you decided to ask someone to act on your behalf.

- (a) Advise the employee on his duties. (16 marks)
- (b) Your agent has asked you to elaborate on your duties. Explain the nature of your duties to him. (9 marks)

Question 4

(25 marks)

- (a) A contract of sale becomes *perfecta* as soon as the parties agree on the terms of sale. Explain the requirements for the sale to be *perfecta*. (9 marks)
- (b) In a contract of sale, both parties have duties to each other. Elaborate on the duties of:
- (i) The seller (4 marks)
 - (ii) The buyer (6 marks)
- (c) Discuss constructive delivery. (6 marks)

End of Paper

BOTSWANA COLLEGE OF DISTANCE AND OPEN LEARNING

In collaboration with

ZIMBABWE OPEN UNIVERSITY

Diploma in Human Resources Management

Diploma in Business Management

BUSINESS LAW

D-BL 01

SESSIONAL EXAMINATION

Marks – 100

Time Allowed **3 Hours**

Instructions to candidates

1. This examination contains three sections(A,B and C). Answer **all questions** in Section A and Section B, and **any 2 questions** in Section C
2. Answer all questions in the answer book provided
3. Start a question on a new page
4. Write legibly in grammatical English.
5. Use examples where possible to support your explanations

SECTION A

(15 MARKS)

MULTIPLE CHOICE QUESTIONS

Each question carries 1 mark

Choose the correct answer

1. Which of the following is not a form of breach of contract?
 - A. Repudiation
 - B. Mora Debitoris
 - C. Cession
 - D. Mora creditoris
 - E. Defective performance

2. Which of the following is not true?
 - A. Impossibility makes contract void
 - B. Performance must not be impossible due to *vis maior or casus fortuitous*
 - C. Impossibility must not be due to the faulty of either party.
 - D. To render a contract void, performance must be objectively impossible
 - E. If performance under a contract is only temporarily impossible then the contract will not be void but will simply be suspended until it becomes possible once again to render performance.

3. The following are true except _____.
 - A. Acceptance must be void.
 - B. Acceptance must be unconditional
 - C. Acceptance must be unambiguous
 - D. Acceptance must be in the manner prescribed by the offeror
 - E. Acceptance must be made by the offeree.

4. An offer does not stand open indefinitely. It may lapse under the following conditions except _____.

- A. Withdrawal
- B. Officious bystander test
- C. Lapse of unreasonable time
- D. Rejection of refusal
- E. Counter offer

5. Which of the following is not a mistake made under contracts?

- A. Error in persona
- ~~B. Error in Error~~
- C. Mutual mistake
- D. Unilateral mistake
- E. Error in *Corpore*

6. The following are essentials of a valid contract except _____.

- ~~A. Death~~
- B. Consensus
- C. Serious intention
- D. Capacity to contract
- E. Possibility of performance

7. All of the following are court officers except _____.

- A. Judge
- B. Magistrate
- C. Ombudsman
- D. Clerk of court
- E. Attorney General

8. Which one is not a source of law?

- A. Foreign law
- B. Common law
- C. Custom
- D. Matrimonial property
- E. Case law

9. Law is a weapon of all the following except _____.

- A. Chaos
- B. Order
- C. Justice
- D. Security
- E. Peace

10. Rights can be divided into the following classes except _____.

- A. Agrarian rights
- B. Personal rights
- C. Personality rights
- D. Industrial property rights
- E. Real right

11. Which one is not a merx?

- A. A house
- B. Wind
- C. A book
- D. An invention
- E. A person's dignity

12. Which one is odd?
- A. F.O.R sales
 - B. Impossible sales
 - C. C.I.F sales
 - D. F.O.B sales
 - E. Sales by auction
13. The rights of partners are all the following except _____.
- A. Contributions to a partnership property
 - B. Act in bad faith
 - C. Access to the books and accounts
 - D. Reimbursement or remuneration
 - E. Duty to share profits
14. The following are types of partners except _____.
- A. Ordinary partnership
 - B. Good partnership
 - C. Commanditarian partnership
 - D. Statutory limited liability partnership
 - E. Sleeping partners
15. Business law helps us to _____.
- A. Understand law of contracts
 - B. Understand law of education
 - C. Understand law of insurance
 - D. Understand law of sale
 - E. Understand law of agency

SECTION B

35 MARKS

SHORT ANSWER QUESTIONS

QUESTION 1

10 MARKS

State whether the following statements are **True** or **False**.

1. Law protects us and is established for the safety of citizens and to promote an orderly and stable society.
2. Laws are the same as rules.
3. Industrial property rights are rights over creations of your mind, such as literary works and inventions.
4. Lack of true consensus between contracting parties may be due to mistake.
5. A person who owes a performance under a contract is called a debtor.
6. A post –dated cheque may not be accepted by a credit grantor as an initial payment or initial rental.
7. The function of an estate agent is not to introduce a buyer of property who is both willing and able to meet the terms of the seller.
8. A sole proprietorship is essentially a ‘two-man show’.
9. A bill of exchange is a conditional 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 certain sum of money to a specified person or his order, to bearer.
10. Repudiation is not the same as anticipatory breach.

QUESTION 2

25 MARKS

Answer all questions.

1. Outline and write brief notes on the following:

- (a) Duties of a lessee **(2 marks)**
- (b) Duties of a lessor **(2 marks)**
- (c) Tacit renewal **(2 marks)**
- (d) Hire goes before sale **(2 marks)**
- (e) Termination of lease **(2 marks)**

2. Discuss the conditions under which a contract is deemed unlawful?

(15 marks)

SECTION C

50 MARKS

ANSWER ANY TWO QUESTIONS IN THIS SECTION.

QUESTION 1

25 MARKS

- (a) Distinguish between contracts of agency from one of employment. **(5 marks)**
- (b) What do you understand by the term mandate? **(5 marks)**
- (c) Differentiate special power of attorney, by giving practical examples. **(5 marks)**
- (d) Justify the fairness of the doctrine of *estoppel* (ostensible authority) in the law of agency. **(5 marks)**
- (e) Evaluate the usefulness of the doctrine of *Negotiorum Gestio*. **(5 marks)**

QUESTION 2

25 MARKS

- (a) Explain, giving practical examples where possible, the following statements/or terms:
- (i) The liability of the surety **(5 marks)**
- (ii) Liens **(5 marks)**
- (iii) Markings on a cheque **(5 marks)**
- (iv) Endorsement **(5 marks)**
- (v) Sleeping partner **(5 marks)**

QUESTION 3

25 MARKS

An auction sale was held in Francistown at the Main Mall on 1 January 2011. At the auction, a watch was placed on top of a computer monitor but the two items were of separate-lots. Mr Thabo, who was bidding thought that it was a two in one situation-Thus he thought he was buying the computer and the watch in the same price bided (was buying the lot as one item). After successfully winning the bid, Mr Thabo was shocked when the auctioneer refused to give him the watch saying that it was not part of the computer. An argument ensued until the matter was taken to the courts.

- (i) Advise Mr Thabo on his legal rights. **(10 marks)**
- (ii) What advice can you give to the auctioneer? **(10 marks)**
- (iii) What type of mistake is this, according to contract law? **(5 marks)**

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ZIMBABWE OPEN UNIVERSITY

Diploma in Business Management

BUSINESS LAW

BL101

SESSIONAL EXAMINATION

Marks – 100

Time Allowed **3 Hours**

Instructions to candidates

1. This examination contains three sections(A,B and C). Answer **all questions** in Section A and Section B, and **any 2 questions** in Section C.
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5. Use examples where possible to support your explanations.

SECTION A

(10 MARKS)

MULTIPLE CHOICE QUESTIONS

Each question carries 1 mark

Choose the correct answer

1. The main purpose of Law is to _____.
 - A. Punish
 - B. Be obeyed
 - C. Regulate human behavior
 - D. Condone disorder

2. Choose the odd one out.
 - A. Cheating in the Examination
 - B. Disrespecting parents
 - C. Lying to one another
 - D. Dishonoring contacts

3. Which one is not a juristic person?
 - A. Mr. Johnson
 - B. BOCODOL
 - C. African Reformed church
 - D. Botswana Power Corporation

4. Mr. Moses runs a transport business alone. He is a _____.
 - A. Sole Trader
 - B. Close corporation
 - C. Business Trust
 - D. Company

5. _____ law is concerned with relations between the state and the individual.
- A. Private
 - B. Public
 - C. Mercantile
 - D. Criminal
6. A contract must be all of the following, except _____.
- A. being clear
 - B. having serious intention
 - C. being unlawful
 - D. having capacity to contract
7. A contract is voidable, except when there is _____.
- A. Consensus
 - B. Misrepresentation
 - C. Duress
 - D. undue influence
8. Acceptance of offer must be _____.
- A. Conditional
 - B. Ambiguous
 - C. Communicated
 - D. accepted by the offeror
9. A contract lapses due to, except _____.
- A. Death
 - B. good performance
 - C. withdrawal
 - D. counter offer

10. Sipho is a mother at 16 years. She got a job at BHL but could not sign an employment contract because of being _____.
- A. a mother
 - B. a girl
 - C. a minor
 - D. having a baby at a young age

SECTION B

10 MARKS

SHORT ANSWER QUESTIONS

Using appropriate word(s), Complete the following sentences.

1. _____ forms the framework of rules through which states form laws.
2. Buildings falls under _____ property.
3. Law made by judges is called _____.
4. Contract can only come into effect if the offer is valid.
5. Forcing one into a contract is called to _____.
6. When parties negotiate honestly but at cross purposes it is called _____ mistake ^{Common} _{unilateral}.
7. Placing Rent is the primary duty of the tenant.
8. A partnership should have 2 to 20 members.
9. Partners in a partnership have unlimited liability.
10. The _____ cheque cannot be paid over the counter but can only be deposited into a bank account.

QUESTION 2

30 MARKS

Answer all questions.

1. Define and briefly explain each of the following terms:

- a) Law (5 marks)
- b) Legislation (5 marks)
- c) Customary law (5 marks)
- d) Judicial precedent (Case laws) (5 marks)

- e) Constitution (5 marks)
- f) Treaties (5 marks)

SECTION C 2
ANSWER ALL QUESTIONS IN THIS SECTION. 50 MARKS

QUESTION 1 25 MARKS

Critically discuss the duties of a buyer and a seller in a contract of sale.

(25 marks)

QUESTION 2 25 MARKS

Theo lives at Plot 26464 Block 9 Gaborone in Botswana. Mr. Moses is the landlord. Identify and discuss in detail the obligations of the Lessee and then those of the lessor in this contract.

*rent
full enjoyment
Not disturbed by third party
should be in good state*

(25 marks)

QUESTION 3 25 MARKS

Complete the following table in short sentences that explain fully the given forms of businesses.

(25 marks)

| Characteristics | Sole Trader | Partnership | Private Company | Public Company | Closed Corporation |
|----------------------|--------------|-------------|-----------------|----------------|--------------------|
| Number of Members | 1 | 2 - 20 | | | 1 - 10 |
| Legal entity | not separate | separate | separate | separate | separate |
| Liability of members | unlimited | limited | limited | limited | limited |
| Continuity | wane | continues | continues | continues | continues |
| Financing | limited | not limited | | | |

END OF PAPER