

NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY

FACULTY OF COMMERCE

DEPARTMENT OF BANKING

BACHELOR OF COMMERCE HONOURS DEGREE IN BANKING

LAW RELATING TO BANKING I

CIN 2103

FINAL EXAMINATION

APRIL/MAY 2003

INSTRUCTIONS TO CANDIDATES

- (i) Time : 3 hours.
- (ii) Question **1** is compulsory.
- (iii) The total number of questions to be answered is **FIVE** including Question 1.
- (iv) All Questions carry equal marks.
- (v) Candidates are required to cite relevant legal authorities where appropriate.

QUESTION 1 (COMPULSORY)

In lending money to their clients, banks intend to make a profit. For them to remain viable they have put in measures that assist them in recovering their monies. They do so by use of securities/or advances.

Discuss **FOUR** types of securities for advances and show how the bank can use these in the event of a customer failing to pay. **[20]**

QUESTION 2

Discuss any **FOUR** of the following:

- (a) Landlord's hypothec **[5]**
- (i) Pledge **[5]**
- (ii) Kustingbrief **[5]**
- (iii) Participation bonds **[5]**
- (iv) The extinction of mortgages **[5]**

QUESTION 3

A newly resettled farmer Mr Ivhu Kuvanhu is unfortunate this year in that because of drought he has not been able to produce anything from his farm that he leases from Umhlabathi Ebantwini Co-operative. He approaches Vuka Uzenzele Bank for a loan to purchase irrigation equipment. He offers the farm belonging to Umhlabathi Ebantwini Co-operative as security.

Advise the bank as to the legal implications involved. Also discuss what steps the bank would take in order to recover its money once it has accepted the land as security.

[20]

QUESTION 4

Discuss any of the following :

- (i) Letter of Credit [5]
- (ii) In Du-plume Rule [5]
- (iii) Promissory Note [5]
- (iv) Holder in due course [5]
- (v) Endorsement [5]

QUESTION 5

Electronic Banking has changed the banking system in lot of ways. it however has its advantages and disadvantages. Discuss.

[20]

QUESTION 6

Alex is a banking law student at the National University of Science and Technology. Although he is a brilliant student, he has had a problem in comprehending his lectures on negotiable instruments. As he is facing his final examinations in a month's time, he is desperate to understand the basic principles as the subject. He therefore consults you an expert in banking law seeking the following clarifications:

- (a) The legal effect of a crossing "not negotiable" and how this relates to the concept of transferability of Negotiable instruments. [10]
- (b) Why negotiable instruments assumed commercial importance as an instrument of facilitating trade during the era of the law merchant. [4]
- (c) The involvement of banks in the financing of international trade and whether or not negotiable instruments still play a vital part in the financing international trade. [8]

Please assist Alex.

QUESTION 7

“SOVEREIGN BORROWING is an increasingly worrying feature in Third World countries and a legal machinery has got to be put in place to monitor such borrowing”.

Discuss this statement focussing participating on:

- (i) Types of sovereign borrowing.
 - (ii) The nature of legal obligations born by both sovereign debtors and creditors and
 - (iii) An assessment of how such borrowing has been regulated in other jurisdiction.
- [20]**

END OF EXAMINATION PAPER