

**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]**

SUPPLEMENTARY EXAMINATION

AUGUST 2010

TIME: 3 HOURS

INSTRUCTIONS TO CANDIDATES

- Answer any **FOUR (4)** questions
- Start the answer to each question on a fresh page of the answer sheet.
- Indicate on your answer booklet whether you are in the conventional or parallel programme
- Questions may be written in any order, but must be legibly numbered.

INFORMATION FOR CANDIDATES

- The paper contains **SIX (6)** questions.
- All questions carry equal marks [**25 marks**].
- The businesses in this question paper are intended to be fictitious.

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Turn over

QUESTION ONE

- a) Though the banker's duty to honour cheques has been emphasized in case law, the duty is not absolute but conditional. Identify and discuss the conditions governing the banker's duty to honour cheques. [13 Marks]
- b) In *Tournier V^s National Provincial And Union Bank of England* (1924), Bankes L J stated that there are exceptions to the banker's obligation of secrecy. Discuss these exceptions quoting decided legal cases. [12 Marks]

TOTAL

[25 MARKS]

QUESTION TWO

- a) It has been vehemently argued that the relationship between a banker and a customer is that of a debtor and a creditor. Is this argument sound? Your discussion should include the implication of money deposited into a bank by a customer. [20 Marks]
- b) State and explain two examples of the Rule in Clayton's Case (*Devaynes V^s Noble*, 1816) operating against the bank. [5 Marks]

TOTAL

[25 MARKS]

QUESTION THREE

- a) Explain precisely the distinction between negotiability, assignability and transferability of a financial instrument. [10 Marks]
- b) What criteria does a person have to satisfy if he is to become a "holder-in-due-course"? [6 Marks]
- c) What are the rights and duties of a "holder-in-due-course"? [9 Marks]

TOTAL

[25 MARKS]

QUESTION FOUR

- a) Discuss the importance of the Reserve Bank of Zimbabwe in the Zimbabwean banking system. [13 Marks]
- b) Is there a duplication of roles between the Reserve Bank of Zimbabwe and the Registrar of Banks in Zimbabwe? [12 Marks]

TOTAL

[25 MARKS]

QUESTION FIVE

- a) Discuss banking law as it relates to minors in Zimbabwe. [5 Marks]
- b) Quoting decided cases, discuss the circumstances under which an unassisted minor acquires a perfectly valid obligation under a contract. [20 Marks]

TOTAL

[25 MARKS]

QUESTION SIX

- a) Explain the legal significance of the various types of cheque crossings using appropriate diagrams to support your answer. In each case, say whether the crossing arises from statute or custom. [15 Marks]
- b) You are a high-ranking employee of a bank. Your bank has paid out money by mistake. You are called upon to explain to your bank manager the personal action that he intends to institute in a bid to recover the money. Advise him fully, citing relevant legal authority. [10 Marks]

TOTAL

[25 MARKS]