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**CERTIFIED PUBLIC ACCOUNTANT
FOUNDATION LEVEL EXAMINATIONS**

F1.2: INTRODUCTION TO LAW

DATE: WEDNESDAY 28, AUGUST 2024

INSTRUCTIONS:

1. **Time Allowed: 3 hours 15 minutes** (15 minutes reading and 3 hours writing).
2. This examination has **seven questions** and only **five questions** are to be attempted.
3. Marks allocated to each question are shown at the end of the question.
4. The question paper should not be taken out of the examination room.

QUESTION ONE

a) Two students were having a discussion on law, the first student, Miss Uwase argued that procedural law prevails over substantive law because the first thing to consider in law is the procedure by which substantive law is enforced. The second, Mr. Birasa argued that substantive law prevails because it regulates rights and obligations of people in the society.

Required:

As a candidate of introduction to law, **comment on the case scenario above by supporting who is right and provide one example on each category of law.** (3 Marks)

b) Considering the case study above, Miss Uwase and Mr. Birasa, have also discussed international law and they agreed that it is the law of nations, and it consists of rules governing the relations between states. More so, Mr. Birasa mentioned that he heard it on radio, and it has three distinct legal disciplines and he asked Miss Uwase to explain more about those distinct disciplines. Miss Uwase responded by saying that she does not know the topic as she has attended the class of introduction to law only twice.

Required:

Discuss the three distinct legal disciplines of international law and provide an example on each legal discipline. (3 Marks)

c) Mr. Kaneza, a staff of one of the government institutions, was in official mission in Rubavu District for five days. When it was at 14h00, he went for lunch and drunk three bottles of beers and then he returned to work. On his way to the place of work, one of his clients from Kigali office called Mr. Muyenzi, approached Mr. Kaneza and started yelling on him that he had refused the service which he requested from the Office because of him. Mr. Kaneza got angry and knocked him down, he punched him on the cheek and hurt him. Immediately, the ambulance came and took him to the nearby hospital and he was treated immediately.

Mr. Muyenzi after recovery, he decided to file a complaint against Mr. Kaneza but he does not know what to do and if Mr. Kaneza may be punished.

Required:

As a candidate of company law who was approached by Mr. Muyenzi, **explain to him if Mr. Kaneza can be sanctioned.** (4 Marks)

d) PNFAT Ltd is a construction company limited by shares and located in Gasabo District. It owns different assets including immovables. In 2015, the Ministry of Commerce and Industry issued an instruction to relocate different immovable assets due to the fact that they were in swamp. The instructions were clear that the owners of the immovables properties to be relocated were authorised to put those activities in the swamp by competent organs expropriated for public interest. The valuation was done by the Ministry of Commerce and Industry but by the time for payment to PNFAT Ltd a fair compensation, a cabinet decision was published to the effect that no one will be paid because those assets were in a swamp.

PNFAT Ltd is not happy with that decision as it was claiming five billion francs (FRW 5,000,000,000) of its assets to be relocated as valued by Ministry of Commerce and Industry and needs to file a case in court.

Required:

As a candidate of introduction to law, **mention a competent court to hear the case and list at least FOUR (4) disputes that can be heard by that competent court.** (5 Marks)

e) Mr. Kabambe had a labour case in Intermediate court of Nyarugenge against Umutara Ltd for illegal dismissal. The case was heard first by Intermediate Court of Nyarugenge and decided that Mr. Kabambe was illegally dismissed and ordered Umutara Ltd to pay him six million francs (FRW 6,000,000) as compensation for illegal dismissal. Umutara Ltd appealed the decision of the Intermediate Court of Nyarugenge to High Court. The High Court also confirmed the decision of the Intermediate Court of Nyarugenge as it was the last instance. Umutara Ltd feels that the court which heard the case, have taken a decision which not based on law

Required:

Umutara Ltd is not happy with the decision of the High Court and requests you for a legal advice on if the case can be continued to upper courts. **Advise Umutara Ltd the possible way the court can again hear the case and provide the grounds for it.** (5 Marks)

(Total: 20 Marks)

QUESTION TWO

a) Digital Ltd has entered into a business contract of ten billion francs (FRW 10,000,000,000) with BMB Ltd which is related to the supply of electrical equipments. The contract is for a period of five years renewable once if the parties are happy with the execution of the initial contract. In the contract, they agreed for an arbitration clause.

Recently, a dispute arose from the quality of the materials. The negotiations between the parties on the issue failed but Digital Ltd does not have money to pay the arbitrators and it is attempting to use courts because the Managing Director heard that it is so expensive. BMB Ltd has refused to use the courts because in the contract, they had agreed to use arbitration on any dispute arising from the contract. Therefore, after a long discussion, they took a step to use arbitration but because the arbitration clause was not detailed, the issue persisted.

Required:

i) As an expert in arbitration, **write an arbitration clause which provides all information that is needed for reference.** (6 Marks)

ii) Digital Ltd was insisting on using courts because arbitration is expensive. **Do you think that it is true? Comment on it and differentiate arbitration from litigation.** (4 Marks)

b) Mr. Joe is a professional football player who plays for Gasabo football team. When he was walking to the place of training, he had a ball and he met a friend of him and walked together while playing a ball on street. In meantime, a young lady crossed the road and accidentally, Mr. Joe threw the ball and hit the lady hard the lady and she fell to the ground unconscious. She was treated in hospital for one week and thereafter, she recovered. Two after her recovery she filed a case against Mr. Joe for compensation. Mr. Joe pleaded that the compensation should not be provided because what happened was an accident.

Required:

As the candidate of the introduction to law, **argue this case and explain your position.**

(5 Marks)

c) Miss Jane aged twenty-one years bought a house that has a land measuring one thousand two hundred (1,200) square meters from Mr. Paul aged seventeen years located in Bugesera District, Ntarama Sector and Kanzenze Cell for fifty million (50,000,000FRW). Mr. Paul was given a house as gift donated by his parents. After the contract of sale, the transfer was not done because Miss Jane was abroad but the house was possessed by her family. Five years later, Miss Jane came back to Rwanda and requested Mr. Paul to facilitate the transfer of the house and the latter refused and informed her that the house has increased the value and if she needs a transfer, she should pay ten million francs more (10,000,000FRW) otherwise the contract is null and void.

Required:

Miss Jane does not understand why Mr. Paul does not want to transfer the house as long as she has already paid the price and she comes to you for advice on how the transfer can be done.

Analyse the case and advise her.

(5 Marks)

(Total: 20 Marks)

QUESTION THREE

a) Mrs. Nyinawuntu fifty-six years old was informed that Mr. Gakwandi seventy years old has two cows to sell and she approached him to know if he really needs to sell those cows and the price for them. Mr. Gakwandi has accepted to sell those cows to whoever will pay one million five hundred thousand francs (1.500.000FRW) each and Mrs Nyinawumuntu informed him that she accepts the price to buy those two cows for the price of three million francs (3,000.000FRW) for both and that she will pay after three days. After one day, Miss Mutoni came and paid the price of three million two hundred thousand francs (3,200,000FRW) for both cows and when Mrs Nyinawumuntu came back on the due date, she found out that the cows have already been delivered to Miss Mutoni. Mrs Nyinawumuntu claimed that cows belonged to her and she is attempting to sue Mr. Gakwandi of breach of contract of sale and requests for the return of the cows.

Required:

As a candidate of introduction to law, **do you think that this is a breach of contract of sale?**

Justify your position.

(4 Marks)

b) Miss Mahoro has a business of providing different services related to financial services. She heard from a radio an advertisement that any interested and capable person should present a letter of interest for representing a newly licenced insurance company in Rwanda as an agent. The advertisement requests whoever interested to mention the place where he/she will work so as to ensure that the whole country is covered. Miss Mahoro is not aware of this way of doing business through agency and comes to you for more clarification.

Required:

- i) Define an agency; (1 Mark)
- ii) Explain to her the essentials of the contract of agency. (5 Marks)

c) Mr. Kwitonda promised to give his sister ten million francs (FRW 10,000,000) provided that his land is sold within ten days. His sister has various interested potential clients but she failed to convince them to buy it within the timeframe. On 11th day, the land was sold by one of her clients. She claimed to be given ten million francs (FRW 10,000,000) as promised but his brother informed her that the contract was terminated.

Required:

- i) Analyse the case and decide who is right? (2 Marks)
- ii) List at least three kinds of discharge of the contract. (3 Marks)

d) Ownership is the right to enjoy and dispose of things in an exclusive and absolute manner provided that it does not violate the established rules and regulation. the full owner of a property must be having all the three mentioned sub rights which compose the ownership right as *usus*, *abusus* and *fructus*. In the *usus*, A person is free to use his property e.g. a house, by occupying it or a farm by cultivating it, or any kind of use of your property. However, there are some limitations.

Required:

Discuss the limitations on the prerogatives of ownership right of *usus*. (5 Marks)

(Total: 20 Marks)

QUESTION FOUR

a) The law n° 060/2021 of 14/10/2021 governing negotiable instruments defines negotiable instrument as a written document of monetary value which creates a right, that is transferable to different persons. Negotiable instruments are documents that represent a promise to pay a specific amount of money to the holder. They are transferable from one party to another, enabling the easy exchange of value. The law provides that negotiable instruments in Rwanda are a bill of exchange, a promissory note and a cheque.

Required:

Discuss the distinct characteristics of negotiable instruments. (4 Marks)

b) Insurance is an important and growing part of the financial sector in all developed and some developing countries including Rwanda. A resilient and well-regulated insurance industry can significantly contribute to economic growth and efficient resource allocation through transfer of risk and mobilisation of saving. Therefore, as the insurance is for covering the potential risks of the insured, the insurance industry has many risks. For insurers, the risks that impact on their ability to pay can be classified into different categories.

Required:

Explain the three main categories of risks to insurers. (3 Marks)

c) Mr. Niyonkuru had concluded an implied contract of agency with ZBMR Ltd, an insurance company limited by shares. They had agreed on the task of the agent and the remuneration for any performance of the agent that generates a profit. One day, the principal (ZBMR Ltd) got information that the agent had competed with him in the area of his working and when he asked him why he did it, he answered that the terms and conditions of the contract, did not include such a duty. More so, he added that as long as he delivers services to whoever want its products, it is enough and he can do any other things for his benefit.

Required:

Do you think Mr. Niyonkuru was right? Justify your position. (3 Marks)

d) Mr. Karera wants to sell his car Toyota Landcruiser V8 to Mr. Rugwizangoga. They both have entered into the contract and they mutually agreed for the price of fifteen million francs (FRW 15,000,000) only. John sold the car and the transfer of ownership was completed. After the contract of sale, Mr. Karera died and all his properties inherited by his only son Mr. Muhire. Later, Mr. Muhire who is Mr. Karera's son filed a case in court against Mr. Rugwizangoga stating that the consideration was very less hence the contract needs to be cancelled.

Required:

Analyse the case study above and explain your position. (5 Marks)

e) On Saturday, Mr. Manzi offered to sell interior materials of the house left after construction to Mr. Mugwaneza for fifteen million francs (FRW 15,000,000), the offer was open until Monday. On Monday at 9.am, Mr. Mugwaneza sent an email asking if he could have credit terms. At 12.34pm, Mr. Mugwaneza sent an email accepting Mr. Manzi's offer, but at 12.25pm, Mr. Manzi had sent an email: 'Sold interior materials of the house to third party' arriving at 12.46pm. Mr. Mugwaneza sued Mr. Manzi for breach of contract and Mr. Manzi argued that Mr. Mugwaneza email was a counter-offer, so Mr. Manzi's second email could not be an acceptance.

Required:

Analyse the case study above and explain your position. (5 Marks)

(Total: 20 Marks)

QUESTION FIVE

a) Mrs Umurungi is a single mother. She takes her daughter Akaliza (a five-year-old infant) to a local playground. While drinking coffee, Mrs. Umurungi starts talking with another young parent, Mr. Ganza. Mrs. Umurungi is distracted by Mr. Ganza's good looks and pritty charm. Meanwhile, Akaliza starts to wander over the road with a stone.

Mr. Ganza notices a possible catastrophe and rushes out after Akaliza. Mr. Ganza just manages to save Akaliza from being run over by Mr. Nduwayo, who is driving a van within the speed limit and quite safely. Akaliza after seeing that the van can hit her, threw the stone and broke a windscreen of that car. Mr. Nduwayo stopped the car and claimed from her mother to money to repair the damage caused but Mrs. Murungi responded that what happened was caused by the fear of an accident.

Required:

Analysed the case study above and explain if Mrs. Umurungi is liable to repair damages caused by her daughter Akaliza. (6 Marks)

b) The way of identifying a person is different from country to country. It is in this background that the law n°32/2016 of 28/08/2016 governing persons and family as amended by the Law n° 001/2020 of 02/02/2020 regulates how a person can be identified. The identification of a person is important because it is used for everything related to a person either for any contract, or to summon a person when he/she has a case against him/her in court. The identification of a person helps to differentiate one person from another.

Required:

Discuss the elements for identifying a person in Rwanda as provided for by the law mentioned above. (7 Marks)

c) JBON Ltd a private company limited by shares concluded a business contract with the company DNMQ unlimited company. The contract was for a period of six months for the value of a hundred million francs (FRW 100,000,000) based on quantity and quality of items delivered. The contract included the dispute resolution clause that any dispute arising will be settled amicably but when no amicably settlement is reached, a dispute will be tried by the competent court.

In the execution of the said contract, a dispute has arisen especially on the quantity of items delivered with the corresponding prices to be paid based on the invoice submitted by DNMQ unlimited company. JBON Ltd refused to pay the invoice and DNMQ unlimited company in revenge stopped to deliver the remaining items.

JBON Ltd made phone call to DNMQ unlimited company to discuss the issue, but the Managing Director did not pick the call; and thereafter, a case was lodged in Commercial Court of Nyarugenge against DNMQ unlimited company for breach of contract and requested the court to order for the payment of the loss caused by non-delivery of all items as agreed upon

in the contract. DNMQ unlimited company objected the inadmissibility of a claim by the court because the dispute resolution clause was not respected.

Required:

i) Analyse the case study above and decide on it. (2 Marks)

ii) Make a difference between a negotiation procedure and a court procedure to in resolving a dispute. (5 Marks)

(Total: 20 Marks)

QUESTION SIX

a) The law of property is a subject of controversies for academicians who have entitled the course “the law of things” while other call it “the law of property or property law”. However, other scholars, accept that the two terms, law of things and law of property, can be used interchangeably.

Property is at times confused with another interesting term which is “patrimony”. However, the latter is wider than the former.

Required:

i) Define a property; (1 Mark)

ii) With the help of one example each, explain the difference between patrimonial rights and extra-patrimonial rights; (4 Marks)

iii) Discuss the link between a patrimony and the person. (5 Marks)

b) A source of law is the origin of any law. It is the binding rule that enable any state to govern its territory. The terminology of source of law was already used in Rome by Cicero as a metaphor referring to the "fountain" ("fons" in Latin) of law. Technically, anything that can create, change, or cancel any right or law is considered a source of law. The term source of law may sometimes refer to the sovereign or to the seat of power from which the law derives its validity. There are two kinds of sources of law: material and formal sources.

Required:

i) Define the material source of law; (2 Marks)

ii) Discuss various material source of law; (6 Marks)

iii) Explain the value of material source of law. (2 Marks)

(Total: 20 Marks)

QUESTION SEVEN

a) Two students namely Miss Umutoni and Miss Umunyana were discussing about law especially on its historical background and how it is enacted. Miss Umutoni said that the law was there when the earth was created and added that there is no life in society without law. She continued saying that she would not imagine how the world would be, if everyone does whatever he/she wants without thinking of others' rights. In other words, it is impossible to imagine a society of radical anarchy when everything is absolutely allowed. The law is enacted to prevent and resolve conflict of interest. Miss Umunyana said that the law is there to oppress the weak. The rich people are not subject to law, they do whatever they want even if there is a law prohibiting a given behaviour.

Required:

On the basis of the discussion above on the purpose of the law, **comment on it with examples.** (5 Marks)

b) Mr. Iganze Owen went to Uganda to pursue business on the basis of the information he heard about business opportunities in Uganda. In doing so, he became successful and he now owns many properties and he has opened five companies doing different businesses. When the Uganda Revenue Authority carried out an audit it found out that there were some taxes which were not declared and paid. The criminal investigations started investigation according to the Law of Uganda. After investigations, the indictment was submitted to court and the pleadings was done by the prosecutor together with an investigator who carried out those investigations. He was surprised on the procedures used in his case in which to him it was different from Rwanda because the prosecutor is the only one allowed to plead the case.

Required:

Explain the legal systems mentioned in the case scenario above and make a difference between them with mentioning at least three examples each. (5 Marks)

c) There are two main types of formal sources of law. Primary and secondary sources. The primary sources of law are the principal sources of law. In a narrow sense, these are laws enacted by the Parliament and promulgated by the President of the Republic. In a broader sense, the Law means all legal rules of written law formulated in a general way by means of exercising legislative power or even executive power. The Constitution of the Republic of Rwanda of 2003 as revised in 2015 provides for the hierarchy of laws.

Required:

List and explain the hierarchy source of law of Rwanda. (5 Marks)

d) Mr. B has worked with CMGD Ltd as its agent for selling its services in Eastern Province for many years without an agreement. One day, a client of Mr. B claimed to have been given a bad service and he informed the principal who had declined to work with Mr. B. Mr. B as he was given instructions by the principal to provide such service in that mode, he became angry and has decided to lodge a case against CMGD Ltd because of the loss incurred due to the bad reputation from such behaviour of the principal.

Required:
Do you think the way Mr. B worked with CMGD Ltd is allowed in agency? Explain your position. (2 Marks)

e) Mr. Mukama has different properties located in different area in Rwanda. Some of those properties are movables and immovables. Due to the plan of the construction of the hospital in the neighbourhood, he was informed that the land including the house will be expropriated for public interest. A friend of him came and told him that as the land belongs to him, no one can take him away from his properties and he added that there are different categories of land in which each category has its own way of accessing it and taking it away.

Required:
Discuss the categories of land and analyse the case if the land may be expropriated for public interest? (3 Marks)
(Total: 20 Marks)

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