

**INSTITUTE OF BANKERS IN MALAWI**

**DIPLOMA IN BANKING EXAMINATION**

**SUBJECT: LAW OF TRUSTS, SETTLEMENTS & ADMINISTRATION OF**

**ESTATES (IOBM- D217)**

**Date: Monday, 12th November 2018**

**Time Allocated: 3 hours (13:30 – 16:30 Hours)**

**INSTRUCTIONS TO CANDIDATES**

1 This paper consists of **TWO** Sections, A and B.

2 Section A consists of 4 questions, each question carries 15 marks.

Answer **ALL** questions.

3 Section B consists of 4 questions, each question carries 20 marks. Answer **ANY TWO** questions.

4 You will be allowed **10 minutes** to go through the paper before the start of the examination, you may write on this paper but not in the answer book.

5 Begin each answer on a new page.

6 **Please write your examination number on each answer book used. Answer books without examination numbers will not be marked.**

7 All persons writing examinations without payment will risk expulsion from the Institute.

8 If you are caught cheating, you will be automatically disqualified in all subjects seated this semester.

9 DO NOT open this question paper until instructed to do so.

**SECTION A (60 MARKS)**

Answer **ALL** questions from this section

**QUESTION 1**

(a) Define a trust. *(5 marks)*

(b) explain how the following trusts operate;

(i) constructive trust

(ii) special trust.

*(10 marks)*

**(Total 15 marks)**

**QUESTION 2**

(a) Differentiate between a power and trust. *(5 marks)*

(b) Outline **five** differences between personal representatives and trustees. *(10 marks)*

**(Total 15 marks)**

**QUESTION 3**

Identify and discuss **three** certainties of a trust. **(Total 15 marks)**

**QUESTION 4**

Explain what is involved in the following duties of a trustee.

1. duty to act unanimously *(5 marks)*
2. duty to exercise discretion properly *(5 marks)*
3. duty to keep accounts and records *(5 marks)*

**(Total 15 marks)**

**SECTION B (40 MARKS)**

Answer ANY **TWO** questions from this section

**QUESTION 5**

1. Define a trust corporation as defined in the Trustee Act. *(6 marks)*
2. Why are trust corporations preferred to individual trustees? *(9 marks)*
3. Explain an executory trust. *(5 marks)*

**(Total 20 marks)**

**QUESTION 6**

1. Distinguish an equitable estate from a legal estate.  *(8 marks)*
2. Outline **six** incidents of a trustee’s estate.  *(12 marks)*

**(Total 20 marks)**

**QUESTION 7**

1. Mention **five** defences available to a trustee who has been sued for breach of trust.

*(10 marks)*

1. Narrate the facts and holding in the case of **Saunders v Vautiers?** *(8 marks)*
2. Define strict settlement. *(2 marks)*

**(Total 20 marks)**

**QUESTION 8**

1. Explain how are trustees’ powers are controlled? *(12 marks)*
2. Mention **four** remedies available for breach of trust. *(8 marks)*

**(Total 20 marks)**

**END OF EXAMINATION PAPER**