

**INSTITUTE OF BANKERS IN MALAWI**

**DIPLOMA IN BANKING EXAMINATION**

**SUBJECT: PROPERTY LAW (IOBM – AD314)**

**Date: Thursday, 20th November 2014**

**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**

Rights in land are not only defined by reference to the physical boundaries of the property, but also by reference to the time for which the interest will endure.

**Required**

Justify this statement with the aid of leasehold estates and freehold estates.

**(Total 15 marks)**

**QUESTION 2**

Define the following terms:

1. Choses in possession. *(5 marks)*
2. Choses in action. *(5 marks)*
3. Intellectual property rights. *(5 marks)*

**(Total 15 marks)**

**QUESTION 3**

Mokwane has entered into a contract with Zizwani for the sale of land being Title number BXY 234. Zizwani has paid a 50% deposit pending the conveyancing and registration formalities. Advise on the legal effects of the contract of sale in relation to the parties and the property.  **(Total 15 marks)**

**QUESTION 4**

Write brief notes on the following:

1. Leases for a fixed period. (*5 marks)*
2. Periodic leases. *(5 marks)*
3. Tenancy at will. *(5 marks)*

**(Total 15 marks)**

**SECTION B (40 MARKS)**

Answer **ANY TWO** questions from this section

**QUESTION 5**

Mr. Martinez is a wealthy tycoon in Blantyre. He has acquired a huge office complex and registered it in the names of his two daughters namely Esperanza and Ibergather. It is recorded that in the event of the death of either of the daughters, the surviving daughter is to take 100% stake in the property. Esperanza is a spendthrift and wants to dispose of her share and go to Jamaica. Ibergather is protesting the intended disposition.

1. Identify and justify the type of ownership of property that is subsisting between Esperanza and Ibergather.  *(10 marks)*
2. Advise Esperanza on whether she can dispose her share in the property.

*(5 marks)*

## Assume Esperanza has successfully apportioned her share in the property. However, Esperanza dies before identification of a potential buyer. Advise on the fate of the share of Esperanza in the property. (5 marks)

**(Total 20 marks)**

**QUESTION 6**

(a) Compare and contrast the duration of copyright protection and patent production. *(5 marks)*

(b) The duration of patent protection is short so as to spur technological advancements. Discuss. *(15 marks)*

**(Total 20 marks)**

**QUESTION 7**

Section 6 of the Limitation Act reads:

‘No action shall be brought by any person to recover any land after the expiry of 12 years from the date on which the right of action accrued to him or, if it first accrued to some other person through whom he claims, to that person’.

As per the above cited section, write brief notes on the following:-

1. Accrual of the right of action. *(10 marks)*
2. Intention to possess (animus possidendi). *(10 marks)*

**(Total 20 marks)**

**QUESTION 8**

1. Wadada has intellectual property rights (copyright) in a publication called ‘Wadada Has Just Begun’. He wants to transfer the copyright in the publication to his son Wadada Junior. Briefly advise him on the transfer formalities.

*(5 marks)*

1. In recent months, a slang term of ‘PASAVUTE’ has arisen amongst the general populance of Mongolia. Two mobile phone companies are now marketing their products using the term ‘PASAVUTE’. Critically examine if the slang term ‘PASAVUTE’ meets the basic principles for copyright protection. *(15 marks)*

**(Total 20 marks)**

**END OF EXAMINATION PAPER**