

**INSTITUTE OF BANKERS IN MALAWI**

**ADVANCED DIPLOMA IN BANKING**

**SUBJECT: PROPERTY FINANCE LAW (AD 314)**

**Date: Thursday, 16th May 2019**

**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**

1. Identify and comment on any **three** types of property. *(6 marks)*
2. Property Law distinguishes **rights in rem** from **rights in personam.**

**Required**

Explain, with relevant examples, the difference between **rights in rem** and **rights in personam.** *(6 marks)*

1. Explain the meaning of goodwill. *(3 marks)*

**(Total 15 marks)**

**QUESTION 2**

1. ‘The concept of ownership involves the parcelling of mutual rights and obligations to different resource users.’ Discuss this statement with the aid of land as an object of property. *(10 marks)*
2. Distinguish a **patent** from a **trade mark.** *(5 marks)*

**(Total 15 marks)**

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**QUESTION 3**

Possession has **three** distinct and separable elements, that is, physical possession, legal possession and the right to possess. Discuss.  **(Total marks)**

**QUESTION 4**

Discuss how property rights are affected upon celebration of marriage, subsistence of marriage and upon divorce.

**(Total 15 marks)**

**SECTION B (40 MARKS)**

Answer **ANY TWO** questions from this section

**QUESTION 5**

Mrs. Banda has a house in Ndirande Township. He runs a small business and intends to expand its operations. He wishes to borrow money from one of the local banks and use his matrimonial house as security.

**Required**

Write an essay explaining to Mrs Banda the following:-

1. How a charge is created.
2. The difference between a legal and an equitable mortgage.
3. Mrs Banda’s right to equity of redemption. **(Total 20 marks)**

**QUESTION 6**

(a) In common parlance property is understood as a "thing", however, in law, property is understood as a relationship between individuals called ‘subjects of property’ in respect of things called ‘objects of property.’ Discuss. *(15 marks)*

(b) Distinguish **fixed leases** from **periodic leases**. *(5 marks)*

**(Total 20 marks)**

**QUESTION 7**

1. Explain the following terms:
2. Testamentary succession.  *(5 marks)*
3. Intestate succession*. (5 marks)*
4. Explain how security over intellectual property is created*. (10 marks)*

**(Total 20 marks)**

**QUESTION 8**

Explain the modalities for the exercise of the mortgagee’s power of sale.

**(Total 20 marks)**