

UNIVERSITY OF SWAZILAND
FACULTY OF COMMERCE
DEPARTMENT OF ACCOUNTING
LAW214 MAIN EXAM PAPER

Programme of Study : **B. Comm. Level 2 F/T**

Title of Paper : **Commercial Law II**

Course Code : **LAW214**

Time Allowed : **3 Hours**

Total Marks : **100**

Examiner: : **Dr. M.N. Shongwe**

INSTRUCTIONS:

1. The total number of Questions on this paper is six (6).
2. Answer any Four (4) Questions. Each question carries 25 Marks.
3. Begin each question on a new page.
4. In answering any question ensure that your expression is clear, and refer to relevant case law.

THIS PAPER MAY NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY INVIGILATOR(S).

QUESTION 1

Consider the following facts:

On the 4th of January 2010 M takes up an insurance policy with the Swaziland Royal Insurance Corporation, insuring his house against fire. He pays the premiums upfront for the whole year. Six months later M sells the house for cash against transfer to B. 3 months later, the house was destroyed by fire. M has been paid at this time and ownership of the house has been transferred to the buyer. Therefore M has no further pecuniary interest to the house.

With reference to case law, discuss the principle of 'insurable interest' and its applicability in the above matter should M wish to claim under his policy.

[25 Marks]

QUESTION 2

With specific reference to the two cases: *Great Western Co. Ltd v London and County Banking Co. Ltd* [1901] AC 444, and *Commissioner of Taxation v English, Scottish and Australian Bank* [1920] AC 683, describe **who is a customer of a bank**.

[25 Marks]

QUESTION 3

With the aid of the case of *Energy Measurement (Pty) Ltd. v First National Bank of South Africa Ltd* (2002) 3 SA 396, identify five compelling reasons for the imposition of a duty of care on a collecting banker when opening an account for a prospective client.

[25 MARKS]

QUESTION 4

- a. Name and define the three essential parties to a negotiable instrument. [9 Marks]
 - b. What is a signature by procuration in the law of negotiable instruments? [6 Marks]
 - c. Discuss the legal effect of:
 - i. crossing a cheque **especially**, [3 Marks]
 - ii. crossing a cheque **generally** and adding the words “**not negotiable**”, [4 Marks]
 - iii. crossing a cheque **generally** and adding the words “**account payee only**” [3 Marks]
- [TOTAL: 25 MARKS]**

QUESTION 5

- a. List and briefly define any 5 qualities of money. [5 Marks]
 - b. What are the functions of money? [5 Marks]
 - c. To protect the insurer, the law imposes an especially onerous duty of disclosure upon the insured. Discuss what this duty entails. [15 Marks]
- [TOTAL: 25 MARKS]**

QUESTION 6

With specific reference to the case of *Transitional Local Council of Randfontein v ABSA Bank Ltd.* 2002 SA 134, describe what is meant by a contract of *depositum*, and distinguish it from a contract of *mutuum*.

[25 MARKS]

END OF EXAM