



***"Investing in Africa's Future"***

**FACULTY OF MANAGEMENT AND ADMINISTRATION**

**COURSE TITLE: MMS 203 – BUSINESS LAW (PARALLEL-HARARE)**  
**SEMESTER 1: FINAL EXAMINATION NOVEMBER 2013**  
**LECTURER: MR. T MASIIWA**  
**TIME: 3 HOURS**

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***INSTRUCTIONS***

Answer all questions.

Start **each** question on a new page in your answer booklet.

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Read and understood the question before attempting it. Also take note of the mark allocation in answering the questions.

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Credit will be awarded for logical, systematic and neat presentations.

### **Question 1**

- a. Are social rules the same as laws? Explain. 5 marks
- b. State the two broad categories of courts in Zimbabwe. 2 marks
- c. Evaluate and compare legislation and judicial decisions as sources of law in Zimbabwe. What other sources of law exist. 6 marks
- d. With reference to examples, explain the distinction between *Ratio Decidendi* and *Obita dicta*. 2 marks
- e. Give any three bases for a review and two bases for an appeal. 5 marks

### **Question 2**

- a. Explain the nature and validity of a contract under common law. 6 marks
- b. Distinguish between offer and invitation to treaty. 2 marks
- c. Distinguish between *void ab initio* and voidable agreements. 2 marks
- d. Assess the remedies available to a person who has suffered loss as a result of transacting contractually with another. 10 marks

### **Question 3**

- a. Outline the essential elements of a sale contract. 3 marks

- b. A and B negotiate for the sale by A to B for five heads of cattle. A invites B to his farm where he points out the five heads of cattle one by one to B. B says he will send an employee of his to remove the cattle at a later time.
- i. Name the method of delivery used in the above scenario. 2 marks
  - ii. State the other methods of delivery under a contract of sale. 5 marks
- c. Explain the aspect of defects under the law of sale and state what a buyer must prove in respect of defects in a merx. 5 marks
- d. Briefly outline fully the concept of Aedilition remedies as applied under the law of Sale in Zimbabwe. 5 marks

#### **Question 4**

- a. Explain the legal test for insolvency. 2 marks
- b. Outline any five (5) acts of insolvency as stated under section 11 of the Insolvency Act. 5 marks
- c. *"Where a person has been declared insolvent, ownership of the spouse's property also vests in the Master of the High Court. The intention is to prevent an insolvent from alienating or putting out of reach of creditors, some of his property and passing it to his wife."*

Clearly outline what the spouse should prove in order for the trustee to release any property he has attached. 5 marks

- d. Outline any four instances when an insolvent can be rehabilitated. 4 marks
- e. Clearly outline any four (4) effects of rehabilitation on the insolvent. 4 marks

**Question 5**

- a. State the essential elements one needs to establish for a valid principal agent relationship to exist. 4 marks
- b. " An estate agent is sometimes said not to be an agent at all as he does not conclude a contract on behalf of his principal and does not undertake a mandate ... but he is treated as an agent for some purposes"

State and comment any three types of agents that you know 3 marks

- c. Explain the types of authority under which or by which an agent can perform acts showing clearly the differences between these types of authorities. 8 marks
- d. Outline any five ways of terminating a principal agent relationship. 5 marks

**TOTAL MARKS 100**