

POSSIBLE ANSWERS FOR:

MERCANTILE LAW SG

PAPER B

QUESTION 1

COMPULSORY

1.1 O

1.2 E

1.3 J

1.4 B

1.5 N

1.6 H

1.7 M

1.8 K

1.9 F

1.10 L

1.11 C

1.12 I

1.13 A

1.14 G

1.15 D

1.16 False - skill or labour

15 x 2 = 30

1.17 False - employee

1.18 False - pledge

1.19 False - two

4 x 3 = 12

1.20 Hire goes before sale

1.21 Rural

1.22 Sequestration

1.23 Master

4 x 2 = 8

[50]

QUESTION 2 PARTNERSHIP / CLOSE CORPORATION / COMPANIES ACT

2.1

- 2.1.1 Partnership agreement
- 2.1.2 To make a profit
- 2.1.3 Losses
- 2.1.4 Anonymous / silent

4 x 1 = 4

2.2

- During the existence of the partnership the partners are jointly liable for partnership debts.
- A creditor, therefore, cannot hold one of the partners severally liable for the total amount owed. - At dissolution of the partnership the partners are jointly and severally liable for debts of the partnership.
- This means that the creditor has a choice to hold all the partners liable together or one of the partners for the whole debt.
- Merger of estates, therefore, occurs at dissolution of the partnership.
- If the partnership summon someone or is itself summoned the rules of court provide that the firm name can be used.

Any 4 x 2 = 8

2.3

- 2.3.1 Partners
- 2.3.2 Public company
- 2.3.3 Close corporation
- 2.3.4 Private company

4 x 2 = 8

2.4

- 2.4.1 Partnership = jointly and severally liable
Companies = limited liability
- 2.4.2 Partnership = 2 to 20
Close corporation = 1 to 10
- 2.4.3 Partnership = terminates by death, retirement
Close corporation = unlimited
- 2.4.4 Partnership = partners
Companies = shareholders / directors
- 2.4.5 Memorandum of association
Articles of association

5 x 2 = 10

2.5

- Each partner has a right to a share in the profits.
- Stipulated in the agreement.
- Partners must not be excluded from the division of profits.

- Divided pro-rata, in proportion to the partner's contributions.
- Profits can be divided equally.
- Are not entitled to interest on capital, or compensation.

5 x 2 = 10

2.6

- Full name of CC
- Principal business to be carried
- Postal address of registered office
- Full name and ID of each member
- Each member's interest expressed as a percentage
- Particulars of each member's contributions
- Name and address of accounting official
- Date and year of financial year

Any 5 x 2 = 10

[50]

QUESTION 3 LEASE OF IMMOVABLE PROPERTY

3.1

- Specified immovable property
 - * The parties must be in agreement as to the particular property.
 - * The landlord need not be the owner of the property - he can merely guarantee free use and occupation.
- Period of time, e.g. one year
 - * The tenant should not have the use of the property permanently.
 - * They must agree expressly or implicitly on the period.
- Specified amount of rent
 - * The parties must agree that the tenant pay, in return for the use and occupation of the property.
 - * It must consist of a definite amount, if consist of money / or share in the fruits of the property.

3 x 4 = 12

3.2

- The tenant may not be prejudiced.
- The trustee of the insolvent estate to offer the leased property for sale, with the retention of the lease.
- In the case of long term
- or short term leases.

3 x 2 = 6

3.3

- Placing of leased property at disposal of tenant.
- Warranty against interference in property.
- Implementation of all necessary repairs to property.
- Compensation for defects in property.
- Paying of rates and taxes levies on property.
- Recognition of tenant's rights to sublet property.
- Compensation for improvements.

Any 5 x 2 = 10

3.4

- If there is failure to pay rent, the landlord may demand payment.
- May give notice that, if payment is not made, he will cancel the contract.
- This is called a forfeiture clause.
- The court enforces such a contract.
- Venter vs Venter.

3 x 2 = 6

3.5

- Dwellings in a area where there is no rentboard.
- Dwellings at least a 100 years old.
- Dwellings exempt in Gazette.
- Dwellings ordinarily occupied by owner.
- In accordance with the slumsact.

3 x 2 = 6

3.6

- By the expiry of time eg. one year.
- By notice given by either of the parties
- By mutual agreement between landlord and tenant
- By merger of the tenant and the landlord
- By insolvency of the tenant
- Destruction of the leased property
- By cancellation by either of the parties
- By the death of either of the parties, if such a condition has been written into the lease.

Any 5 x 2 = 10

[50]

QUESTION 4 AGENCY

4.1

- For the institution of legal action in the Supreme court.
- For the transfer of land.
- For the registration of mortgage in the Deeds office.
- For the purchase or sale of land on behalf of the principal.

4 x 2 = 8

4.2

- By express authority
- By operation of the law
- By conduct
- By ratification

4 x 1 = 4

4.3

- Where the principal approves the appointment.
- Where it is acknowledged trade usage.

2 x 2 = 4

4.4

- Principal must pay the agent the promised remuneration, in terms of the agreement or by custom.
- The agent is entitled to a reasonable remuneration.
- He is entitled to remuneration only if he has carried out his instructions.
- If he has performed the services, the principal is compelled to pay, even in cases where the principal derives no advantage.
- In the case of estate agents he is liable to pay commission only on the happening of a specified event.
- If he introduces a buyer and that introduction results in the agreement, the principal must remunerate him.
- Doyle vs Gibbon

Any 5 x 2 = 10

4.5

4.5.1 Auctioneer

4.5.2 The auctioneer is obliged to accept the highest bid. 1 x 2 = 2

4.5.3 No 1 x 2 = 2

An auctioneer sells only for cash.

2 x 2 = 4

4.6

4.6.1

- The principal represents by his words or conduct.
- The person to whom the representations are made act accordingly.

2 x 2 = 4

4.6.2

- When the principal signs a blank power of attorney.
- The owner stands by and allow another person to sell the article.
- A person authorizes his housekeeper to purchase household necessities.
- A parent permits his child to buy goods on credit.
- Previous transactions.

3 x 2 = 6

4.7

- The principal on whose behalf the agent acts may not exist at the time when the contract is concluded.
- The one exception is where a company has not yet been registered.
- The principal on whose behalf the agent is acting may have no contractual capacity, for example the principal may be a minor.

3 x 2 = 6

[50]

QUESTION 5 INSOLVENCY

5.1

5.1.1

- When the insolvent himself, or his agent, petitions the Court for the surrender of his estate.
- For the benefit of his creditors.

2 x 2 = 4

5.1.2

- The debtor must publish, before the date of application, a notice of surrender of estate in the **Government Gazette** as well as in a **newspaper** in circulation in the district in which he resides or conducts business.
- The debtor must send or hand over, within 7 days after publication of the notice of surrender of estate, a copy thereof to each creditor whose address he knows or can establish.
- The debtor must draw up a statement of affairs and lodge two copies thereof at the masters office.
- On receipt of the statement of affairs the Master, may direct the applicant to have one or more of the specified assets valued.
- The statement of affairs must be open to the inspection of any creditor for a period of fourteen days.
- The applicant-debtor must prove the following matters before he can succeed:
 - * That the preliminary formalities have been complied with.
 - * That the applicant is indeed insolvent.
 - * That the free residue is sufficient to cover the costs of sequestration.
 - * That sequestration will be to the advantage of the creditors.

5 x 2 = 10

5.2

5.2.1 Secured portion / free residue

5.2.2 An act of insolvency

2 x 2 = 4

5.3

- The creditor has established his claim.
- The debtor has committed an act of insolvency
- There is reason to believe that it will be to the advantage of the creditors.

3 x 2 = 6

5.4

5.4.1 True

5.4.2 True

5.4.3 False Master / Higher court.

= 8

5.5

- Hereby the debtor is called upon to appear in Court on a special day.
- To show cause why his estate should not be finally sequestrated.
- The order must be served personally.
- If absent a copy will be attached to the outer door of the court building.
- And it be published in the Government Gazette.

4 x 2 = 8

5.6

- Compensation by reason of personal injury or defamation
- A pension to which he is entitled to.
- Indemnification or compensation.
- Assets obtained after sequestration, as a result of his own labour.
- The clothing and bedding and other essential means of livelihood.
- Life policies taken out on the insolvent's own life.
- Assets obtained by the sale or exchange.

Any 5 x 2 = 10

[50]

QUESTION 6 PLEDGES AND MORTGAGE / NEGOTIABLE INSTRUMENTS

6.1

6.1.1.

- Formed without agreement
- on the grounds of special circumstances / obtains the security by the operation of the law.

2 x 2 = 4

6.1.2

- Liens
When a person is in possession of property and does work or spend money thereon.
with express or implied permission
- Landlord's hypothec for rent in arrears
No agreement is required in this case
Must be on leased property
- Instalment sales hypothec
Seller's security extends only over that property for the amount outstanding.
- Preferences
 - Medical practitioners and funeral undertakers.
At insolvency

Any 3 x 4 = 12

6.2

- * Special mortgage must be registered.
- * A written document (mortgage bond) must be drawn up.
- * Must be drawn up by a notary public.
- * Contain the following particulars:
 - the property bonded
 - the interest to be paid
 - the date and manner of payment.
- * The bond must be signed by the owner
- * The Registrar of Deeds signs the document.
- * He validates the bond with the official seal.
- * It is important that the bond must be submitted for registration within two months.

Any 5 x 2 = 10

6.3

- Retains the property until his debt is paid.
- He shall take due care of the property.
- When he debt has been paid he must return the goods with their increase
- He must account in full for the fruits produced.

2 x 2 = 4

6.4

- A mortgage obtains a real right over the debtor's bonded immovable property.
- The bonded property serves as security.
- Rights extends not only over the goods given as security, but also over the appendages.

2 x 2 = 4

6.5

- An order to pay
- The order is unconditional
- It must be in writing
- Must be signed by the person giving it
- Must comprise a certain sum of money
- Must be payable on demand
- Must be payable to a specified person

Any 5 x 2 = 10

6.6

- The drawer;
person who instructs the banker
- The drawee;
banker who receives the instruction
- The payee;
who is to receive payment

3 x 2 = 6

[50]

QUESTION 7 COMPANIES ACT / LIENS

7.1

7.1.1

- May be voluntary
- by means of special resolution.
- By order of the Registrar
- name is undesirable.

4 x 1 = 4

7.1.2

- The registrar upon written application and payment of prescribed fee
- may reserve a name which he approves for a period of two months.

2 x 2 = 4

7.1.3

- Public company end with Limited.
- The name may not be the same as that of a company already registered.
- Can refuse to register a name which in his opinion is calculated to misled the public.
- Name must consist of at least three letters of the alphabet.
- Word or words describing the main business.
- Words such as Government or State - with consent of State President.
- Words such as Bank - with consent of Minister of finance.
- Hotel or motel are registered as a hotel.

Any 5 x 2 = 10

7.2

- A natural person is regarded as someone, society or entity.
- Capable of obtaining rights and obligations.
- Can participate in legal dealings.
- Can acquire and alienate property.
- Can conclude contracts and institute a legal action.
- Members of shareholders formed a legal person.

6 x 2 = 12

7.3

7.3.1

- If a person in possession of another's property has incurred labour or money in respect of the property, but without the
- express or implied consent of the owner of the property,
- he has a lien over it, if the expenses are useful, they have increased the market value of the property.

3 x 2 = 6

7.3.2

- Construction of buildings on land
- Construction of fences on a farm
- Construction of a dam on a farm

- Sinking of a borehole.
- Any other correct example

Any 2 x 2 = 4

7.4

- It must be legal possession.
 - * Implies physical control
 - * With the intention of holding the property for personal benefit.
- The possession must be uninterrupted.
 - * If he parts with the property voluntarily, the lien thereon is not revived.
- If the property is taken from his possession in an unlawful manner.
- If he gives up the property to the insolvent's trustee.

5 x 2 = 10

[50]

QUESTION 8 WILLS

8.1

8.1.1

- Voluntary declaration of which must be made in a prescribed legal manner.
- Which a person determines what must happen to his estate.

2 x 2 = 4

8.1.2

- Must be divided among the beneficiaries according to the legally process.
- Once all obligations and expenses have been paid.

2 x 2 = 4

8.1.3

- If a person dies without a will,
- Succession takes place in accordance with common law.

2 x 2 = 4

8.2

- Will made by two or more persons.
- Need not necessarily be spouses.
- Eg. partners
- It may take the form of two separate wills, the sake of convenience are contained in one document.
- Testators may change any Clauses, without knowledge of co-testator.
- Reciprocal will -reciprocally benefited.
- The ordinary requirements for a valid will are applicable.

4 x 2 = 8

8.3

- 16 years for a will
- 14 witness

2 x 2 = 4

8.4

- Must take in possession all goods, books or documents.
- Must render an inventory .
- Open a banking account in the name of the estate.
- Publish a notice in the Government Gazette of his appointment.
- Must ascertain whether the estate is insolvent or not.
- If he finds that the estate is insolvent, he must give notice to the Master.
- If the estate is insolvent he must inform the creditors.
- If the estate is solvent, he goes ahead with the planning for the liquidation.

Any 5 x 2 = 10

8.5

8.5.1

- Minister of Justice appoints a Master.
- Master is situated in the city or town where the Supreme court is situated.
- He must possess special legal knowledge.
- Must have certain minimum legal qualifications.

3 x 2 = 6

8.5.2

- Act in a judicial capacity where he must accept and register will.
- Must act in a advisory capacity, giving guidance.
- Has administrative and discretionary powers.

3 x 2 = 6

8.5.3

- Supervision over the administration of estates
- The master is a person of authority

2 x 2 = 4

[50]

QUESTION 9 SURETYSHIP / GENERAL

9.1

- An agreement between the surety and the creditor.
- The agreement must be in writing
- Must be signed by the surety.

3 x 2 = 6

9.2

- This is the benefit of division.
- It arises in cases where there is more than one surety.
- Where two or more persons pledge themselves as sureties for

- the debtor, they are known as co-sureties.
- Co-sureties are jointly and severally liable to the creditor.
 - The benefit of division means, however, that a surety who is held liable by the creditor for the whole performance, can claim that he must only perform for his proportional portion, as long as he does so at the beginning of the process.
 - In the following cases this defence will not be at the disposal of the surety:
 - * Where he renounced it, by binding himself as co-surety and principal debtor.
 - * Where he is co-surety for an indivisible performance (e.g. where an object must be delivered).
 - * Sureties who are abroad or in a foreign country and has left nothing behind.
 - * Insolvent sureties or minors cannot be held liable for a equal share.

6 x 2 = 12

9.3

- When the principal debt has been extinguished by payment, merger.
- Expiry of the agreed period.
- Where the surety retains the right to terminate the contract.
- Where debtor offers payment, but creditor refuses it, and the debtor then becomes insolvent.

Any 4 x 2 = 8

9.4

- 9.4.1 B
- 9.4.2 D
- 9.4.3 C
- 9.4.4 A
- 9.4.5 F

5 x 2 = 10

9.5

- 9.5.1 Special crossing / Must be paid in specified bank account 2 x 2 = 2
- 9.5.2 No Changes without signature / Cheque not signed 2 x 2 = 4
- 9.5.3 Kagiso 1 x 2 = 2

9.6

- Each member must prevent clashes between personal interests and that of the CC
- Must act honestly and in good faith.
- Will be liable for any losses incurred.
- The curator of an insolvent estate can sell the interest of that member.

2 x 2 = 4

[50]

MOONTLIKE ANTWOORDE VIR:

HANDELSREG STANDAARDGRAAD

<u>VRAAG 1</u>	<u>VERPLISTEND</u>	
1.1	O	
1.2	E	
1.3	J	
1.4	B	
1.5	N	
1.6	H	
1.7	M	
1.8	K	
1.9	F	
1.10	L	
1.11	C	
1.12	I	
1.13	A	
1.14	G	
1.15	D	
1.16	Onwaar - Vernuf of vaardigheid	15 x 2 = 30
1.17	Onwaar - werknemer	
1.18	Onwaar - pand	
1.19	Onwaar - twee	
		4 x 3 = 12
1.20	Huur gaan voor koop	
1.21	Platteland	
1.22	Sekwestrasie	
1.23	Meester	4 x 2 = 8

VRAAG 2

VENNOOTSKAPPE / BESLOTE KORPORASIE

2.1

- 2.1.1 Vennootskapskontrak
- 2.1.2 Om wins te maak
- 2.1.3 Verliese
- 2.1.4 Naamlose / stille

4 x 1 = 4

2.2

- Tydens die bestaan van die vennootskap is vennote gesamentlik aanspreeklik vir vennootskapsskulde.
- 'n Skuldeiser kan dus nie een van die vennote afsonderlik vir die totale verskuldigde bedrag aanspreek nie.
- By ontbinding is vennote gesamenlike en afsonderlik aanspreeklik vir vennootskapsskulde.
- Dit beteken dat die skuldeiser 'n keuse het om al die vennote saam aan te spreek of een van die vennote vir die volle skuld.
- Samesmelting van boedels vind dus by ontbinding van die vennootskap plaas.
- Indien die vennote iemand dagvaar of gedagvaar word, maak die hofreëls daarvoor voorsiening dat die firmanaam gebruik moet word nie, en nie die van die vennoot persoonlik nie.

Enige 4 x 2 = 8

2.3

- 2.3.1 Vennootskap
- 2.3.2 Publieke maatskappy
- 2.3.3 Beslote Korporasie
- 2.3.4 Privaat maatskappy

4 x 2 = 8

2.4

- 2.4.1 Vennootskap - gesamenlik en afsonderlik
Maatskappy - beperkte aanspreeklikheid
- 2.4.2 Vennootskap - 2 to 20
Beslote korporasie - 1 to 10
- 2.4.3 Vennootskap - ontbind by dood, aftrede, ens.
Beslote korporasie - onbeperkte
- 2.4.4 Vennootskap - vennote
Maatskappy - aandeelhouders / direkteure
- 2.4.5 Akte van oprigting / Statuut.

5 x 2 = 10

2.5

- Elke vennoot het 'n aanspraak op 'n deel van die wins.
- Word in die vennootskapsoreenkoms uiteengesit.
- Solank een of meer nie uitgesluit is van winsdeling.
- Die reël dat dit pro-rata tot hulle bydraes gemaak word.
- Winste kan gelyk op verdeel word.
- Nie geregtig op rente op kapitaal of enige ander vergoeding.

5 x 2 = 10

2.6

- Volle naam van die BK.
- Vernaamste besigheid wat bedryf word
- Posadres van geregistreeerde kantoor
- Volle naam en ID van elke lid
- Elke lid se belang uitgedruk as 'n persentasie
- Besonderhede van elke lid se bydrae
- Naam en adres van rekeningkundige beampte
- Datum en einde van boekjaar

Enige 5 x 2 = 10

[50]

VRAAG 3

HUUR EN VERHUUR VAN ONROERENDE EIENDOM

3.1

- 'n Gespesifiseerde onroerende eiendom.
 - * Moet eens wees oor die vaste eiendom wees.
 - * Verhuurder hoef nie eienaar wees van die verhuurde eiendom te wees nie.
- 'n Bepaalde termyn by. een jaar
 - * Uiteruklike ooreenkoms oor welke termyn die huurder die eiendom sal gebruik.
 - * Die huurder sal nie permanente gebruik en genot van die eiendom hê nie.
- 'n Gespesifiseerde som geld as huur.
 - * Dit moet in geld betaalbaar wees.
 - * Of dit kan bestaan uit 'n bepaalde opbrengs van die grond
 - * Dit moet uit 'n definitiewe vasgestelde bedrag bestaan.
 $2 \times 6 = 12$ OF $3 \times 4 = 12$

3.2

- Die huurder word nie benadeel deur die bankroetskap van die verhuurder nie.
- Die trustee van insolvente boedel die eiendom verkoop met behoud van huurkontrak.
- In die geval van langtermyn huur
- In die geval van korttermyn huur.

3 x 2 = 6

3.3

- Die saak aan die huurder vir gebruik en bewoning oorhandig.
- Die huurder in sy genot en gebruik nie steur nie.
- Al die nodige herstellings aanbring.
- Waarborg teen gebreke aan eiendom.
- Belastinge op eiendom gehef betaal.
- Subhuurders in sekere gevalle erken.
- Die huurder vergoed vir verbeterings aangebring.

Enige 5 x 2 = 10

3.4

- Verhuurder mag eis dat huurgeld betaal word.
- Mag kennis gee dat indien huurgeld nie betaal word die kontrak

- gekanselleer word.
- Word genoem verbeuringsbeding.
- Die howe gee uitvoering aan so 'n klousule.
- Venter vs. Venter.

3 x 2 = 6

3.5

- * Op 'n perseel wat geleë is in 'n gebied waarvoor 'n huurraad nie ingestel is nie.
- * Indien 'n plaaslike bestuur optree.
- * Op 'n perseel ingevolge waarvan die huurgeld deur 'n ander wet beheer word, of vasgestel moet word.
- * Op 'n perseel wat deur die minister van huurbeheer vrygestel is.
- * Op 'n woning wat minstens 100 jaar oud is, en wat volgens tradisie gerestoureer is.
- * Op 'n woning wat vir hoogstens 6 maande in 'n tydperk van 12 maande verhuur word, en daarna weer deur die verhuurder bewoon word.

3 x 2 = 6

3.6

- Deur tydsverloop bv. een jaar
- Deur kennisgewing deur partye, bv 'n maand vir 'n jaarkontrak
- Wedersydse ooreenkoms tussen huurder en verhuurder
- Deur samesmelting van huurder en verhuurder, erf die eiendom
- Insolvensie van huurder
- Vernieting van gehuurde eiendom, brand.
- Deur kansellasië deur partye
- Deur dood indien vooraf in die kontrak ooreengekom

Enige 5 x 2 = 10

[50]

VRAAG 4

AGENTSKAPPE

4.1

- Om geregtelike stappe in die hoërhof te doen.
- Oordrag van grond
- Verband in die akteskantoor te laat registreer
- Grond namens prinsipaal koop of te verkoop.

4 x 2 = 8

4.2

- Uitdruklike ooreenkoms
- Gedrag (Estoppel)
- Bekragtiging
- Regswerking

4 x 1 = 4

4.3

- Wanneer die prinsipaal dit goedkeur of bekragtig.
- Dit is 'n erkende handelsgebruik.

2 x 2 = 4

4.4

- Prinsipaal moet aan die agent die beloofde vergoeding volgens ooreenkoms of deur gewoonte betaal.
- Agent is geregtig op 'n redelike vergoeding vir sy dienste.
- Hy is geregtig op vergoeding slegs indien hy sy opdrag uitgevoer het.
- Die prinsipaal is verplig om sy vergoeding te betaal, selfs in gevalle waar hy geen voordeel uit die kontrak behaal het.
- In die geval van eiendomsagente is hy vir kommissie aanspreeklik slegs wanneer 'n bepaalde gebeurtenis plaasvind.
- As hy 'n moontlike koper bekend stel en dit lei tot die ooreenkoms, word dit beskou asof hy sy opdrag uitgevoer het.
- Doyle vs. Gibbon.

Enige 5 x 2 = 10

4.5

4.5.1 Afslaer

= 2

4.5.2 Hoogste bod moet aanvaar word.

= 2

4.5.3 Nee

Slegs bankgewaarborgde tjeks word aanvaar.

= 4

4.6

4.6.1

- Gebeur wanneer 'n prinsipaal deur sy woorde of optrede skyn verwek dat iemand volmag het om namens hom op te tree.

2 x 2 = 4

4.6.2

- Wanneer die prinsipaal 'n blanko magtiging teken.
- Die eienaar staan by en sien toe dat 'n ander persoon sy eiendom verkoop.
- Persoon laat sy huishulp toe om huishoudelike benodighede op krediet te koop.
- Wanneer 'n ouer uit gewoonte toelaat dat sy kind goedere namens hom op krediet koop.
- Vorige transaksies word as bewys aangehaal.

Enige 3 x 2 = 6

4.7

- Wanneer die prinsipaal namens wie die agent handel, nie bestaan nie het op die tydstip toe die kontrak gesluit is nie. Hierop bestaan daar een uitsondering, nl in die geval van 'n maatskappy wat nog nie geregistreer is nie.
- Wanneer die prinsipaal namens wie die agent handel, nie handelsbevoeg is, bv. kranksinnige of minderjarige.
- Waar die agent namens 'n buitelandse prinsipaal handel, en nie die nodige dokumente kan toon nie.

3 x 2 = 6

[50]

VRAAG 5

INSOLVENSIE

5.1

5.1.1

- Indien die skuldenaar self vir 'n sekwestrasiebevel aansoek doen,
- Tot voordeel van sy skuldeisers.

2 x 2 = 4

5.1.2

- Die skuldenaar moet die aansoek van kennisgewing van boedeloorgawe in die Staatskoerant asook in 'n nuusblad in omloop in die distrik waarin hy woon of besigheid dryf, publiseer.
- Binne sewe dae na publikasie van die kennisgewing van boedeloorgawe moet die skuldenaar 'n afskrif daarvan aan elke skuldeiser wie se adres hy ken of kan vasstel, stuur of oorhandig.
- 'n Skuldenaar moet 'n vermoënstaat opstel en twee eksemplare daarvan by die meesterkantoor indien.
- Na ontvangs van die vermoënstaat kan die meester die aansoeker beveel om een of meer van die aangeduide bates te laat waardeer.
- Hierdie vermoënstaat moet vir 'n tydperk van veertien dae beskikbaar wees ter insae van enige skuldeiser.
- Die skuldenaar moet die volgende aangeleenthede bewys alvorens hy kan slaag:
 - * Dat die formele stappe gedoen is.
 - * Dat die skuldenaar feitelik insolvent is.
 - * Dat die vrye oorskot voldoende is om die sekwestrasiekoste te dek.
 - * Die sekwestrasie tot voordeel van die skuldeisers sal wees.

5 x 2 = 10

5.2

5.2.1 Versekerde bates / vrye oorskot

5.2.2 Daad van insolvensie

2 x 2 = 4

5.3

- Die skuldenaar is insolvent of pleeg 'n daad van insolvensie.
- Die skuldeisers wat die versoek voorlê se eis is bewys.
- Dit sal tot voordeel van die skuldeisers wees.

3 x 2 = 6

5.4

5.4.1 Waar

5.4.2 Waar

5.4.3 Onwaar = Meester / hoërhof

= (8)

5.5

- Wanneer die hof die boedel van 'n skuldenaar sekwestreer, vaardig hy gelyktydig 'n bevel nisi uit.
- Hierdeur word die skuldenaar aangesê om op 'n gegewe dag in die hof te verskyn
- redes aan te gee waarom sy boedel nie finaal gesekwestreer moet word nie.
- Hierdie bevel moet aan die skuldenaar oorhandig word.
- Of 'n afskrif van die bevel aangeheg word aan die buitedeur van die hofgebou.

4 x 2 = 8

5.6

- Vergoeding wat hom toeval by wyse van persoonlike letsel, of skadvergoeding.
- Pensioen waarop hy geregtig mag wees.
- Vergoeding betaalbaar kragtens die Mynteringswet.
- Bate na sekwestrasie deur eie vlyt verkry.
- Klere, beddegoed en ander noodsaaklike bestaansmiddele.
- Lewenspolis op eie lewe.
- Bates verkry deur die verkoop van bogenoemde goedere.

Enige 5 x 2 = 10

[50]

VRAAG 6 PAND EN VERBAND / VERHANDELBARE DOKUMENTE

6.1

6.1.1

- Hierdie soort verband ontstaan sonder ooreenkoms
- bloot op grond van omstandighede / verkry sekuriteit deur werking van die wet.

2 x 2 = 4

6.1.2

- Retensieregte
Indien hy geld of arbeid aan eiendom bestee.
Met of sonder die uitdruklike toestemming.
- Die verhuurder se hipoteek vir agterstallige huur.
Reg op eiendom indien huur agterstallig is.
Op die verhuurde perseel.
- Die afbetalingsverkoophipoteek.
Wanneer 'n persoon se boedel gesekwestreer word.
Reg op roerende eiendom vir agterstallige bedrag
- Voorkeure
- Mediese dokters en begrafnisondernemers.
Eerste voorkeur by insolvensie.

3 x 4 = 12

6.2

- * Soesiale verband moet geregistreer word.
- * Skriftelike dokument, verbandakte moet opgestel word.
- * Moet deur 'n verbanduitmaker opgestel word.
- * Bevat onder andere die volgende:
 - eiendom onder verband
 - rente betaalbaar
 - datum en wyse van terugbetaling
- * Die verbandakte moet deur die eienaar onderteken word.
- * Die registrateur van aktes onderteken verbandakte.
- * Bekragtig dit met sy amoseël.
- * Dit is belangrik dat die verbandakte binne twee maande vir registrasie ingedien moet word.

Enige 5 x 2 = 10

6.3

- Het die goedere in sy besit totdat sy skuld betaal word.
- Hy moet behoorlik na die goedere kyk.
- Wanneer sy skuld vereffen is die goedere tesame met die toevoegings terugbesorg.
- Volledige rekenskap gee van die vrugte wat die saak afgewerp het.

2 x 2 = 4

6.4

- 'n Verbandhouer verkry 'n reg op die verbande onroerende eiendom van die skuldenaar.
- 'n Verbandhouer se reg nie slegs oor die eiendom nie, maar ook oor die toevoegings.

2 x 2 = 4

6.5

- Dit is 'n opdrag om te betaal.
- Die opdrag is onvoorwaardelik.
- Dit moet op skrif gestel wees.
- Dit moet deur die trekker geteken wees.
- Dit moet 'n bepaalde bedrag wees.
- Dit moet op aanvraag betaalbaar wees.
- Betaalbaar wees aan bepaalde persoon.

Enige 5 x 2 = 10

6.6

- Die trekker / persoon wat die opdrag gee.
- Die betrokke / persoon wat die opdrag ontvang.
- Die nemer / persoon wat die betaling ontvang.

3 x 2 = 6

[50]

VRAAG 7

MAATSKAPPYWET / RETENSIEREG

7.1

7.1.1

- Vrywillig -
- by wyse van spesiale besluit.
- Op versoek van registrateur
- naam is misleidend.

4 x 1 = 4

7.1.2

- Die registrateur mag 'n naam wat hy goedkeur, op skriftelike aansoek en teen betaling,
- dit registreer vir 'n tydperk van twee maande.

2 x 2 = 4

7.1.3

- Die slotwoord van die publieke maatskappy is "Beperk"
- Die naam mag nie dieselfde wees as die van 'n reeds geregistreeerde maatskappy nie.
- Registrateur kan weier om 'n naam te registreer wat na sy oordeel bereken is om die publiek te mislei.
- Woorde soos Staat, Regering, slegs met toestemming van staatspresident.
- Woorde soos bank slegs met toestemming van mininster van finansies.
- Naam moet uit minstens drie letters van alfabet bestaan.
- Woorde soos hotel, motel, moet betrekking hê tot die eiendom van verblyf.

Enige 5 x 2 = 10

7.2

- * Regtens word 'n natuurlike persoon beskou as iemand 'n vereniging of entiteit
- * Wat bevoeg is om wetlike regte en verpligtinge te aanvaar.
- * 'n Groep net soos 'n individu kan aan regshandelinge deelneem
- * 'n Natuurlike persoon kan eiendom verkry en van die hand sit.
- * Kan kontrakte aangaan en regsaksies intestel.
- * Word beskou as regspersone.
- * Lede / aandeelhouders van 'n maatskappy as 'n eenheid.

6 x 2 = 12

7.3

7.3.1

- Besitter van 'n ander persoon se eiendom het 'n retensiereg op daardie eiendom as hy geld of arbeid daaraan bestee
- Sonder die toestemming van die eienaar.
- Wanneer dit die markwaarde van die eiendom verhoog.

3 x 2 = 6

7.3.2

- Oprigting van geboue op grond
- Aanbring van heinings om 'n plaas
- Bou van 'n dam op 'n plaas

- Sink van 'n boorgat om water vir diere of eie gebruik te voorsien.
- Korrekte voorbeeld.

2 x 2 = 4

7.4

- Dit moet geregtelike besit wees. Die bedoeling om die eiendom tot eie voordeel te hou. Fisiese beheer daarvoor te hê.
- Dit moet ononderbroke besit wees. Doen hy vrywillig afstand van die eiendom verloor hy sy retensiereg.
- As die saak op 'n ongeoorloofde wyse bv. diefstal uit sy besit geneem is, verloor hy nie sy reg nie.
- Verloor nie sy reg as die saak aan die insolvent se kurator gegee word OF as die saak moet dien as 'n bewysstuk in die hof.

5 x 2 = 10

[50]

VRAAG 8

TESTAMENTE

8.1

8.1.1

- Vrywillige en eensydige wilsuiking wat op 'n voorgeskrewe wyse plaasvind
- waardeur 'n persoon bepaal wat met sy nalatenskap na sy dood moet gebeur.

2 x 2 = 4

8.1.2

- Voorgeskrewe prosedures wat gevolg word om die boedel onder die begunstigdes te verdeel.
- Nadat alle verpligtings en uitgawes vergoed is.

2 x 2 = 4

8.1.3

- Indien 'n persoon sonder testament sterf
- Vind erfopvolging volgens regsreëls plaas.

2 x 2 = 4

8.2

- 'n Testament wat deur twee of meer persone opgestel word.
- Hoof nie noodwendig in die eg verbind te wees nie.
- Voorbeeld - vennote.
- Twee afsonderlike testamente gerieflikshalwe in een dokument saamgevoeg word.
- Erflater kan sy gedeelte herroep of wysig sonder medewete van mede-erflater.
- Wederkerig testament - mekaar oor en weer bevoordeel.
- Gewone vereistes vir opstel is van toepassing.

4 x 2 = 8

8.3

- 16 jaar vir 'n testament
- 14 jaar as getuie

2 x 2 = 4

8.4

- Hy moet die bates van oorledene onder sy bewaring neem.
- Hy moet 'n inventaris van bates opstel.
- Hy moet 'n bankrekening op die naam van die boedel open.
- In Staatskoerant krediteure aansê om vorderings in te dien. -
- Hy moet vasstel of boedel solvent is of nie.
- Boedel insolvent is meester daarvan verwittig.
- Indien insolvent, skuldeisers in kennis stel.
- Indien solvent is, voort met beplanning van likwidasie.
- Boedelgoedere tot geld maak, volgens opdrag van testament.

Enige 5 x 2 = 10

8.5

8.5.1

- Minister van Justisie stel 'n meester aan.
- Vir elke gebied waar 'n hooggeregshof is.
- Moet beskik oor besondere regs kennis.
- Beskik oor sekere regs kwalifikasies.

3 x 2 = 6

8.5.2

- Tree op in 'n regtelike hoedanigheid, vertolk testamente.
- Tree op in 'n adviserende hoedanigheid, gee advies
- Is met administratiewe magte bekleed.

3 x 2 = 6

8.5.3

- Toesig oor die bereddering van boedels
- Hy is 'n gesagsdraer.

2 x 2 = 4

[50]

VRAAG 9

BORGSKAP / ALGEMEEN

9.1

- Ooreenkoms tussen borg en skuldeiser
- Die borg moet die borgkontrak onderteken
- Moet skriftelik gedoen wees.

3 x 2 = 6

9.3

- Dit is die voorreg van skuldsplitsing of skuldverdeling.
- Meer as een persoon kan vir dieselfde skuld borg staan.
- In so 'n geval sal daar dan van medeborge sprake wees.
- Elke medeborg is gesamentlik en afsonderlik teenoor die skuldeiser aanspreeklik.
- Die skuldeiser kan dus van enige van die borge die volle skuld verhaal.

- Die borg wat die volle skuld betaal het, is geregtig om 'n pro-rata deel van elke ander medeborg te eis.
- Medeborg kan ook daarop aandring dat hy elegs vir sy proporsionele gedeelte aanspreeklik is, indien hy vir die volle bedrag van die skuld aanspreeklik word.

Die borg kan hom in die volgende gevalle nie op die voorreg van skuldverdeling beroep nie:

- * Borge wat in die buiteland is, en niks agtergelaat het nie;
- * Insolvente of minderjarige, kan nie vir 'n eweredige deel aanspreeklik word nie.
- * Verder kan van hierdie voorreg afstand gedoen word deurdat 'n borg hom as borg en medeskuldenaar verbind het, of om hom nie te beroep op hierdie voorreg nie.

$$6 \times 2 = 12$$

9.3

- Hoofskuld uitgewis word deur betaling, verjaring ens.
- Verstryking van die tydperk
- Die borg die reg voorbehou om d.m.v. kennisgewing borgskap te beindig.
- Skuldenaar betaling aanbied - skuldeiser weier - dan insolvent.

$$4 \times 2 = 8$$

9.4

- 9.4.1 B
- 9.4.2 D
- 9.4.3 C
- 9.4.4 A
- 9.4.5 F

$$5 \times 2 = 10$$

9.5

- 9.5.1 Spesiale kruising
Moet in 'n bepaalde bankrekening inbetaal word.

$$2 \times 2 = 4$$

9.5.2

- Nee
- Bedrag in woorde en syfers verskil
- Tjek is nie geteken nie.

$$2 \times 2 = 4$$

9.5.3

- Kagiso

$$1 \times 2 = 2$$

9.6

- Bied beperkte aanspreeklikheid aan lede
- Elke lid moet verhoed dat daar botsing tussen persoonlike belange en die van BK ontstaan.
- Eerlik en in goeie trou optree
- Sal aanspreeklik wees vir verliese
- Nie teenstrydig met die bepalings van die wet nie.

$$2 \times 2 = 4$$

[50]