



**CHARTERED INSTITUTE OF BANKERS (GHANA)  
ASSOCIATESHIP EXAMINATIONS**

**CHIEF EXAMINER'S REPORT  
&  
SUGGESTED SOLUTIONS**

of the

**LAW & PRACTICE OF BANKING**

**LEVEL III – PAPER**

in the

**October 2017 Examinations**

<b>Table of Contents</b>	<b>i</b>
<b>The October 2017 Examination</b>	<b>1</b>
Number of questions attempted and performance	1
Mandatory requirements	1
Questions attempted by Centres	2
Performance of Candidates	3
Performance: category of marks by questions	3
Performance across Centres: Passes and Failures	4
Lecturers, Students\Candidates and the Syllabus	5
The question paper and Customer Service	5
Dealing with the examination question	6
<b>The Question Paper</b>	<b>7</b>
<b>The questions and underlying principles\authority</b>	<b>7</b>
Question 1 – Functions of a Banker; the Cheque & the roles of the Paying Banker and the Collecting Banker.	7
Question 2 - Customer’s Duty of care and Right of a 3rd party to obtain Information and Bankers’ Duty of Secrecy.	8
Question 3 – Responsibilities of the Banker Dispatch of Statement of A\c to Customer-Duty of Secrecy; and Opening account for a politically exposed person (PEP)	9
Question 4 – Common Law Right of Appropriation of payments and Duty to operate a satisfactory A\c	10
Question 5 – Attributes of good Security for bankers’ Advance and Preferred order of suitability	11
Question 6 – Preferred Security and Realisation of Equitable and Legal Charges of a matured Life	12
Question 7 – Forms of ownership in Property.	13

## The October 2017 Examination

The October 2017 Examination turned out as the best in performance, both in passes and failures; registering a high 50% passes (120\242 candidates) against the woeful performance in April 2017 of 44\241, or 18% passes. There was a vivid improvement in the category of failures as well, featuring the “Fail C” category at 37\242 or 15% against a disappointing 141\242 or 56%. Details have been showed under “Performance of Candidates”.

My gratitude goes to the Students at the “Meet the Examiner” sessions in Kumasi and Accra centres, who allowed the Chief Examiner to stretch the sessions from 3 hours to 4<sup>1</sup>/<sub>2</sub> hours and 5 hours respectively; and thankfully all stakeholders, from the Banking Students through the CIB to the Banking Industry, have been the beneficiaries.

I can assure the others who couldn’t make it at this sitting that, they will turn out better equipped as they set themselves in readiness for subsequent examination.

242 candidates (251 in April 2017) in all the Centres, with Accra, as at all times, recording the highest number of candidates at 167 (168 in April 2017) as shown below:

Centre	October 2017	April 2017
Accra	167	168
Kumasi	45	55
Sunyani	12	12
Takoradi	8	2
Tamale	10	14
<b>Total</b>	<b>242</b>	<b>251</b>

### *Number of Questions attempted and performance*

242 candidates attempted 1,176\1,210 questions (242 times 5 questions) against 1,230\1,255 questions (251 times 5 questions) in April 2017. Kumasi and Tamale registered a lower number this time round and Takoradi went up 4-fold from “2” to “8” and obtained a 25% pass. Sunyani is yet to justify their existence in the industry.

### *Mandatory requirements*

As usual, candidates continue to pay much more attention to Section “A”, than to section “B, but with some significant improvement this time round.

- 216\242 candidates attempted the mandatory 5\5 questions, particularly all the 120 candidates who passed, against 96\122 of those who failed.
  - 21\26 did 4\5 questions;
  - 4\5 candidates did 3\5 questions and
  - 1 candidate did not answer any question at all.

**Section “A” – Banker and Customer Relationships – 3\4 questions**

- 231\242 scripts recorded the mandatory 3\4 questions;
- 11\242 scripts didn’t record the mandatory 3\4 questions and lost marks in 13 questions, as follows:
  - 9\11 attempted 2\3 questions (9 questions unanswered), and
  - 1\11 candidates answered only 1\3 question (2 unanswered questions); and 1\11 did not attempt at all (3 questions lost); and
  - 1 candidate attempted 4\4 questions against the rules, and 1 question went non-scoring;

**Section “B” – Securities for Bankers’ Advances – 2\3 questions**

- 223\242 candidates presented scripts with the mandatory 2\3 questions;
- 19\242 scripts\candidates went outside the mandatory 2\3 questions as follows:
  - 17\19 candidates answered only 1\2 questions required (marks in 17 questions lost); and
  - 2\19 candidates did not attempt any question at all, i.e., 4 questions lost.

It is in the interest of Banking Students to attempt or endeavour to attempt 3\4 and 2\3 questions in sections “A” & “B” respectively, to demonstrate their preparedness for the examination.

**Questions attempted by Centres**

Questions “2” and “5” turned out as the most popular questions in all centres, and Sunyani (12 candidates) and Tamale (10 candidates) recorded full house respectively.

*Questions attempted by Centres*

Centre	Q1	Q2	Q3	Q4	Q5	Q6	Q7
Accra	102	162	127	110	161	115	45
Kumasi	21	43	36	33	42	35	10
Sunyani	8	12	8	7	10	5	3
Takoradi	6	7	6	2	8	3	3
Tamale	6	8	9	5	10	6	2
<b>Total</b>	<b>139</b>	<b>232</b>	<b>186</b>	<b>156</b>	<b>232</b>	<b>166</b>	<b>65</b>

2 candidates made similar submissions in 2 questions; which went non-scoring and resulted in failures. Indeed, one candidate would have passed, but for this finding.

In another development, a candidate copied, word to word, from the internet to answer question “5” – “Attributes of good Security”; which, of course, went non-scoring. Students will not have their way with such malpractices unless they use sources other than the known.

Question 7 was the least patronized at 65\242, which is very indicative of the weakness in Section “B” so Lecturers would have to employ some different teaching strategies to assist Banking Students in this area of the syllabus.

*Performance of candidates*

Performance was generally above average with reduced\improved numbers in the category of marks obtained.

*Performance by category of marks*

Category of Marks	# of scripts	
	Oct-17	Apr-17
Marks 16 to 20	72	19
Marks 11 to 15	446	229
Marks 1 to 10	658	982
<b>Total</b>	<b>1176</b>	<b>1230</b>

- *Marks between “16 and 20”*  
October2017 scored marks between “16 and 20” in 72\1176 questions against a woeful 19\1230 in April2017;
- *Marks between “11 and 15”*  
446\1176 questions scored between “11 and 15”; registering a significant performance against 229\1230 question at the April2017 examination.
- *Marks between “01 and 10”*  
658\1176 attempted questions registered marks between “1 and 10” against 982\1230 in the April2017 examination. The table below shows the trends using the last 2 sittings.

*Performance – Categories of Marks by questions*

Questions “2” and “5” were the most popular at 232\242 candidates each; and recorded very good marks.

Categories of Marks	Number of candidates attempting Questions						
	Section “A”				Section “B”		
	Q1	Q2	Q3	Q4	Q5	Q6	Q7
Marks 16 to 20	7	33	12	4	7	4	5
Marks 11 to 15	47	120	92	41	112	24	10
Marks 1 to 10	85	79	82	111	113	138	50
<b>Total</b>	<b>139</b>	<b>232</b>	<b>186</b>	<b>156</b>	<b>232</b>	<b>166</b>	<b>65</b>
<b>Highest mark</b>	<b>17</b>	<b>20</b>	<b>20</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>19</b>
<b>April2017</b>	<b>168</b>	<b>240</b>	<b>155</b>	<b>184</b>	<b>211</b>	<b>146</b>	<b>126</b>
<b>Highest mark</b>	<b>17</b>	<b>18</b>	<b>15</b>	<b>18</b>	<b>17</b>	<b>14</b>	<b>13</b>

- Question “2” (which featured Customer’s Duty of care in issuing a Cheque and the Bankers’ Duty of Secrecy) was the most well answered question and registered the lowest number in the lowest score category of between “1 and 10” in Section “A”.

## Branch Banking: Law and Practice

- Question “5” featuring “Attributes of Good Security for Bankers’ Advances”, on the other hand, received 50% above average score marks. It is noteworthy that this section “B” question which was given much attention at the “Meet the Examiner” sessions, received that much patronage and candidates demonstrated sufficient understanding; but not without taking away the indication of the weakness in this part of the syllabus.

### *Performance across centres.*

October 2017 recorded the highest pass rate of 120\242 (representing 50%) and best results over the last 4 sittings (since April2016), against the lowest performance at the April2017 sitting with 18% (44\251) passes.

Accra and Kumasi centres still dominate the passes category and continue to indicate that there is a major challenge with this subject for Banking Students and Lecturers at the centres outside Accra - is it **delivery** of the subject or **preparation** for the examination?

Whichever it is, Ghana’s industry has become a victim of standards in the application of Banking knowledge in the industry. Table below provides the state of performance across the 5 centres.

### *Performance by Centres - Passes*

As indicated earlier, October2017 has registered a significant improvement, of course, not without mentioning that Sunyani has not recorded a pass since the last 4 sittings from April 2016 to date.

#### *Performance by Centres – Passes*

Centres	October 2017				April 2017		
	# of scripts	Pass			# of scripts	Pass	
		#s	%age		#s	%age	
<b>Accra</b>	<b>167</b>	<b>94</b>	<b>56%</b>		<b>168</b>	<b>11</b>	<b>7%</b>
Kumasi	45	21	47%		55	12	22%
<b>Sunyani</b>	<b>12</b>	<b>-</b>	<b>-</b>		<b>12</b>		
Takoradi	8	2	25%		2		
<b>Tamale</b>	<b>10</b>	<b>3</b>	<b>30%</b>		<b>14</b>	<b>1</b>	<b>7%</b>
Total	242	120	50%		251	44	18%

### *Performance by Centres - Failures*

Performance in October2017 was the best in the categories of failures and registered the lowest number of the “Fail C” category of scores (since April 2016) of 37\242 (16%) against a huge “Fail C” scores at 141\251 or 56% in April2017.

## Branch Banking: Law and Practice

### *Performance by Centres – Failures*

Failures by Centres	October 2017				April 2017			
	#s	“A”	“B”	“C”	#s	“A”	“B”	“C”
Accra	73	16	36	21	137	7	38	92
<b>Kumasi</b>	24	3	16	5	43	<b>2</b>	<b>13</b>	<b>28</b>
Sunyani	12	2	5	5	12	1	2	9
<b>Takoradi</b>	6	3		3	2			<b>2</b>
Tamale	7		4	3	13	1	3	9
<b>Total</b>	<b>122</b>	<b>24</b>	<b>61</b>	<b>37</b>	<b>207</b>	<b>11</b>	<b>56</b>	<b>140</b>
	50%	10%	25%	15%	82%	4%	22%	56%
<b>Total (April 2017)</b>	207	11	55	141	207	11	55	141
	82%	4%	22%	56%				

### *Lecturers, Students \ Candidates and the Syllabus*

The “Meet the Examiner” sessions have always revealed that a lot more will be desired at Lecture times and Lecturers should spend much more quality time, at their lecture sessions, to encourage Students to avail themselves to their chosen profession, commit to this course of study and apply themselves to obtain sufficient understanding of the various Banking Principles and underlying authorities.

It is also necessary that Lecturers and Students alike, will work mutually to cover the entire syllabus and Students will need to equip themselves sufficiently to demonstrate understanding of the whole syllabus.

### *The question paper and Customer Service*

All scenarios in the questions represent needs of the Customer in the Banker\Customer Relationship; and every question will be made to simulate a customer complaint.

Candidates should be so guided and endeavour to prepare adequately to go into the Examination halls with the desire to satisfy the customer in every question so attempted.

The examination questions will always be framed to provide an opportunity for candidates to exhibit their competences and preparedness to serve and satisfy the customer.

Marks obtained in the examination will therefore always be an indication of how a candidate would have performed in serving 5 customers on a typical Branch Banking day.

*Dealing with the examination question*

The underlying principles in the questions have been dealt with by identifying same in the various scenarios examined to make these suggested solutions, as useful as intended, for the purposes of Banking Students; candidates and Bank workers, without seeking to indicate that these are exhaustive.

The frameworks shown in the table below will always be posted in the report as a guide, using the mnemonics TIPS and/or PERCS which have always been very useful tools for Banking Students; candidates and Bank workers seeking to acquire knowledge and information.

Format I		Format II	
T	Read the question carefully, <b>THINK</b> and proceed.	P	What Banking <b>PRINCIPLE</b> does the question pose?
I	What is the <b>ISSUE</b> (including exceptions, if any) in the question?	E	Are there any <b>EXCEPTIONS</b> to this principle?
P	What <b>ISSUE</b> has the <b>PROBLEM</b> breached and must be addressed?	R	<b>RELATE</b> the problem to the breached <b>PRINCIPLE</b> to address in the question?
S	Resolve the <b>PROBLEM</b> with the <b>ISSUE</b> for the <b>SOLUTION</b> .	C	Match the <b>PRINCIPLE</b> to the problem, resolve and <b>CONCLUDE</b> .

There was a significant improvement in several scripts to show effective presentation under the various headers in the table (TIPS\PERC), which though was commendable; would not necessarily translate into good passes. Candidates should understand and demonstrate same under the various headers to reflect the underlying principle(s) examined in the question(s) to provide the desired marks.

Lecturers are advised to assist Banking Students and Candidates to equip themselves with the frameworks to facilitate their delivery during the Examinations and in their routine work at their offices.

It is my joy to help Students to **acquire knowledge first and foremost**, and then to *use this knowledge to prepare* sufficiently to **enable them obtain the qualification** they so earnestly seek, so join hands with me and let's make our profession an enviable specialty.



## The Question Paper

The question paper, as indicated above, is intended to test the understanding of the Banking Student and the ability to demonstrate same in the questions examined.

Although Banking Students and candidates are required to make 3\4 choices of questions in Section “A” and 2\3 questions in Section “B”, they should prepare themselves sufficiently and accept the questions as likely real Branch setting situations worthy of resolving, just the same way, they will capably deal with 7\7 customer complaints coming up in the Branch on any given day.

The statistics of passes in this subject touches the very foundation of Ghana’s Banking industry and as a subject which has, historically, been branded as useful training platform for Branch Managers, I expect that Lecturers would step up their teaching strategies to attract Banking Students to the Lecture Rooms and Banking Students will need to put in some more effort in unlearning, learning and relearning to enable them demonstrate understanding, not only during the Examination, but in their daily routines in the Banking business.

## The questions and underlying principles\authority

### Question One

- This question requires the understanding of the Bankers’ functions as upheld in **United Dominion Trust v. Kirkwood**; stating which Banker(s) performs what function; to indicate responsibilities and extent of liability of the BRADAPAT in these functions and what defences are available.
- BRADAPAT is both a Collecting Banker (CB) and Paying Banker (PB). A CB for the GHs3,000.00 cheque and a PB for the GHs1,000.00; but only a few candidates recognized this and did justice to the question. Patronage of the question was 139\242 (59%) and 54\139 scripts made marks between “11 and 17”.
- Lecturers would have to improve tuition in this area of the syllabus and Students would have to spend much more quality time in learning the provisions of the Bills of Exchange Act 55 of 1961 which governs the use of cheques in the Banker and Customer Relationship.
- Candidates spent valuable examination time discussing the PREDEQ Bank which had nothing to do with the question, although mentioning it as a Paying Bank was not out of place.

## Question Two

This question was examined as a bonus in both “i” and “ii” and it was not unexpected that it attracted 232\242 or 96% patronage; with 153\232 obtaining marks between “11 and 20”.

Deserving candidates gave themselves the bonus, and 2 scripts made “20\20”; 3 scripts made “18\20” and 129 scripts made marks between “12” and “17”.

- i. Part “a” simply required candidates to apply knowledge in dealing with the liability of a Customer who breaches the Duty to exercise care in issuing a cheque – **Joachimson v. Swiss Bank Corporation (1921)**.
  - Such knowledge was expected to come from the ruling in **London Joint Stock Bank Ltd., v. McMillan & Arthur (M & A) (1918)**.
  - Indeed “b” simply required a “No” for an answer, but only when a candidate demonstrates strict understanding in part “a”. Candidates who failed to exhibit knowledge in “a”, but were able to indicate knowledge without invoking the McMillan & Arthur ruling were rewarded, albeit for “x\4”.
  - Candidates who stated the McMillan & Arthur case in Part “b”, denied themselves of the relevant rewards.
  
- ii. Part “ii” requires understanding of the Right of a 3<sup>rd</sup> party to obtain information and the Bankers’ Duty for disclosure of Information in the workings of the Bankers’ Duty of Secrecy, reference, **Joachimson v. Swiss Bank Corporation (1921)**, and s. 146(2) of the Banks & Specialised Deposit Taking Institutions Act 930.
  - a) This duty, though not absolute, is subject only in accordance with the ruling in **Tournier’s** case which prescribed the following exceptions:
    - Interest of the Public;
    - Interest of the Bank;
    - Consent of the customer, and
    - Compulsion of Law.

The Bank should not accede to Mrs Banda’s request because her marriage contract does not attach a right to disclosure of information in the Banker and Customer Relationship.

- b) In the present case, the Banker will advise Mrs Banda that she cannot succeed to sue the bank because:
  - The **account** was not a joint account and she was **not an agent** of her husband;
  - The bank **owed a legal duty of confidentiality** to Mr Patrick Banda, the customer, and

- Marriage is not an exception to the Banker's confidentiality duty; and
- The Bank does not owe her a duty to disclose information, unless a Court compels the Bank to do so.
- Quite a number of candidates were rewarded due to submissions including sanctions against officials involved to the for taking steps
- Several candidates chose to ignore the 4 exceptions to the Duty of Secrecy in the 5-mark part "a" question; and rather indicated these in the 3-mark part "b" question; and lost valuable marks.

### **Question Three**

186\242 patronized this question and 1 script scored "20\20"; 103 others scored "11 marks" and above. The question examined the Bankers' Duty of care for disclosing Information and dealing with a politically exposed person (PEP) seeking an account:

- i. Part "i" (which required same principle as question 2 (ii), examines understanding of the Bankers' Duty for disclosure of Information and Duty of Secrecy to the Customer in line with the ruling in **Joachimson v. Swiss Bank Corporation (1921)**.

- Ghana's Banks and Specialised Deposit Taking Institutions Act 930 of 2016 (Banks & DTIs Act) provides in **s. 146 (2)** that " ... a person ... shall not, during or after a relationship with the bank or specialised deposit-taking institution, disclose directly or indirectly to any person any information related to the affairs of any of its customers ... ";
- This duty however, is not absolute, but subject to the ruling in **Tournier's** case which prescribed the following exceptions:
  - Interest of the Public;
  - Interest of the Bank;
  - Consent of the customer, and
  - Compulsion of Law.

- (1) Mrs Koomson was owed a duty of confidentiality and the Bank, by sending the loan statement to the wrong address the Bank breached this duty; and therefore liable to her for the wrongful disclosure.
- (2) The Bank should submit an unqualified apology against her acknowledgement; and seek an amicable out-of-Court settlement of the compensation claim.
- (3) Quite a number of candidates were rewarded due to submissions including sanctions against officials involved in the dispatch of the Statements of Account; and the need to emphasise, in very clear terms, Internal Control measures\Sanctions to avoid recurrence..

- ii. Part “ii” required that the candidate will:
  - a) identify Don Pare as a PEP, and therefore a high risk, to:
    - determine what information and documents will be required; particularly, beside the usual documents;
    - determine any ultimate beneficiary ownership situation and address same; and finally,
    - obtain Senior Management approval to complete the Account Opening formalities.
  - b) Indicate that once the account opening formalities get completed, the Bank will:
    - Monitor account strictly for any inconsistencies and unusual situations;
    - Identify any suspicions and obtain relevant information regarding suspicions; and
    - Report any unusual circumstances as suspicious transactions to the FIC.

#### **Question Four**

156\242 attempted this question but only 45 scored marks above “11”. Performance in this question was generally poor in both parts of the question; being the **Common Law Right of Appropriation of payments** in part “i”; and the **Duty of the Customer to issue checks against sufficient cleared funds\agreed overdraft balances** in part “ii”.

- i. Part “i” required candidates to state that the Customer has the first right of appropriation; followed by the Banker who would then exercise the Bankers’ Right of Set-Off as well, failing which an operation of law in the rule in Clayton’s case.
  - That the Banker will have to pay the GHs1,859.00 cheque irrespective of the overdrawn position because the customer has the first right of appropriation of payments; and
  - Several candidates stated the above in the 4-mark part “b” question instead of the 6-mark part “a” question and lost valuable marks;
  - Part “b” requires a simple “No” for an answer. Of course, those who got it all wrong in part “a”, but strayed back on course were rewarded, but only to the extent of “x<4”.
  - If the letter sought to give the right at all, then it will only be to the extent of putting the Customer’s first right beyond doubt. Indeed, the Customer can make such formal request only because he has the first right of appropriation.
  - But candidates spent time on submissions including:
    - That the letter was to request for an overdraft facility so the Banker should dishonour the cheque to “teach the Customer some lessons”.

## Branch Banking: Law and Practice

- That the Customer does not have the authority to instruct the Banker to pay the cheque when the Customer owed the Banker.
- ii. This bit required the candidate to address the several risks the Banker may face as a result of the customer operating the account in that unsatisfactory manner; and what the Banker will do to forestall these liabilities.
  - There were some good scripts which remembered the rights of the Banker in the ruling in the **Joachimson** case.

### Question Five

- 231\242 or 95% of candidates enjoyed another good question which registered 118\242 or 51% scripts with marks above “11”.
- This question sought to examine the “Attributes of Good Security” and I recall spending some good time on this topic during the “Meet the Examiner” sessions in Accra and Kumasi and “those who had ears heard”.
- Quite a number presented brilliant submissions as attributes and including:
  - Features;
  - Value;
  - Valuation;
  - Suitability regarding title and availability for execution as legal or equitable;
  - Acceptability to facilitate execution;
  - Marketability in respect of value and availability of buyers at the appropriate value
- But of course, it didn't go without the indication that Banking Students continue to carry the notion that the “Securities for Bankers' Advances” part of the syllabus is difficult, and I expect that Lecturers would spend quality time treating “Securities for Bankers' Advances”.
- It was shameful that most candidates did not consider that the main types of acceptable Securities for Bankers' Advances, in the order of preference, are:
  - Land and landed property(is);
  - Life Policies; and
  - Stocks & Shares
- Several others confused the above with the Mortgages; Debentures and Guarantees, which are only forms of charging the above properties as “Securities for Bankers' Advances”.

**Question Six**

Life Policies has been examined consecutively over 4 sittings to date and this question was virtually a “sub-question” of question 5 and another bonus; but only a few Students really “had ears to hear” at the “Meet the Examiner” session; and “eyes to see” during the examinations.

164\242 or 68% candidates attempted this question; with 28\63 scoring marks between “11” and 19”; and 83% or 136\164 demonstrated little understanding of the underlying issues. Candidate who demonstrated understanding in the attributes of Life Policy and Stocks and Shares in question 5 had a field day with question 6.

- a) Here, quite a number of candidates could not recognise that the joint account holder, Mr Kotey's death will crystallize the life policy; and were ready to allow Mrs Kotey to continue the account, when the life policy would bring money to, completely, pay the Banker off.
- b) In Part “b”; several candidates wouldn’t grab the bonus of “5” marks because of their inability to understand that **notice of death of a customer in a Life Policy** as Security for Bankers’ Advances, crystallizes for realisation of the capital sum.
  - Even if its value is lower than the value of the Stocks and Shares held as Security, same would be most preferable to the Stocks and Shares; more so, when, individually, both Securities more than cover the indebtedness.
  - This question required a simple “Life Policy will be the preferred Security to give the Banker a good discharge”, for 5 marks; but only not many candidates saw this.
- c) Part “c”.
  - A few candidates demonstrated understanding of the requirement in the question as being the inability to determine whether Securities were held as “Equitably” or “Legally”; and presented a table for realisation procedures for the 2 forms of charges; because the Branch Manager’s responses had not reached the Banking Student and Legal Advisor.
  - As was usual, many candidates did not indicate the main difference with the equitable assignment at the death of the customer regarding who should sign the “Claim” form for submission to the Insurance company; where the Banker would rely on the Power of Attorney clause in the memorandum of deposit (MOD) to execute a legal assignment to facilitate realization of the policy.
  - Majority of candidates who got it right to realize the Security, whether it was Life Policy or Stock and Shares provided procedures for **executing\perfecting** the Security instead of **realising** the proceeds of the Life Policy.



- Here, those who got the right Security as Life Policy, were rewarded with higher consolation marks than those who preferred Stocks and Shares for realisation.
- The inability of several candidates to recognize that, notice of death of an insured in a Life Policy held as "Security for Bankers' Advances" causes a maturity of the Policy for realisation of the capital value, is very worrisome. A few of those who caught the effect of such notice of death; preferred to make a claim for the **surrender value** instead of the **capital value**; and these mistakes have been made severally and consecutively since April 2017.

### **Question Seven**

The question simply sought to examine the effect of notice of a subsequent charge on property and the various forms of joint ownership; but registered the least number of attempts at 63\242 or 26% patronage with 15\63 making marks between "11 and 19", and a woeful 76% or 48\63 of scripts in the "10 and below" category of marks.

Many scripts indicated that, the Students have not or were not provided tuition in this part of the syllabus; but of course, those who exhibited knowledge and understanding were adequately rewarded.

- i. Part "i" required the candidates to indicate:
  - the effect of notice of a subsequent charge on the Bank's mortgage without the consent of the Banker; and whether standard mortgage form provides for a "prohibition" clause and/or "Consent to further charges" and how to manage these, but candidates spent time to detail the process of taking a legal mortgage.
  - the effects of the legal provisions, including "repayable on demand", which sit in the Bank's standard mortgage form and; the elements of **priority** and **remedies**; which become available ONLY, when same have been **registered** appropriately.
- ii. This part of question "7" sought to test the understanding of candidates regarding the ownership interest in property, including land and landed property(ies).

Many showed little knowledge; and confused "ownership" to freehold and leasehold interests, which represent characteristics/features of the property itself; even though, these were given special mention during the "Meet the Examiner" session on "Attributes of Good Security for Bankers' Advances".

By **s 88** of the **Land Title Registration Act PNDC Law 152 of 1986 (LTRAct)**:

“Where an instrument is made in favour of two or more persons, the entry in the land register giving effect to it shall show:

- a. whether those persons are **Joint Proprietors** or **Proprietors-in-common**, and
  - b. where they are proprietors in common, the share of each proprietor.”
- a) The land in question is one which is governed by a **Joint Tenancy** arrangement where ownership is vested as joint tenants, whereupon, the death of his uncle - Mr Benjamin Tagoe and joint tenant, invokes the *survivorship* clause; and in which case, and therefore ownership vests **totally** with William Norteye, in accordance with **s. 102 LTRAct**.
  - b) The Joint Tenancy notwithstanding, the said land may be subjected to the provision of **s. 89** of **Land Title Registration Act (LTRAct)**, for “*Partitioning of land and severance of joint tenancy*”, unknown to William Norteye. If that was the case, then any such partition constituting severance effected accordingly in the Land Register, then Derrick shall be entitled to a claim as a “**Tenant-in-common**”; which will avail him a right of succession; in accordance with **s. 89 & s. 103** of the **LTRAct**.
  - c) Derrick may, as a personal representative and other personal representatives, if that were the case, be placed in accordance with the provision of **s. 103** of the **LTRAct** for “*Death of proprietor-in-common*”.