

2906/205
COMMERCIAL AND ADMINISTRATIVE LAW
July 2017
Time: 3 hours



THE KENYA NATIONAL EXAMINATIONS COUNCIL

DIPLOMA IN BUSINESS MANAGEMENT

MODULE II

COMMERCIAL AND ADMINISTRATIVE LAW

3 hours

INSTRUCTIONS TO CANDIDATES

This paper consists of SEVEN questions.

Answer any FIVE questions in the answer booklet provided.

All questions carry equal marks.

Candidates should answer the questions in English.

This paper consists of 3 printed pages.

Candidates should check the question paper to ascertain that all the pages are printed as indicated and that no questions are missing.

1. (a) (i) Outline **two** reasons for the application of the principle of natural fairness in judiciary decisions. (4 marks)
- (ii) Explain **three** principles of natural justice. (6 marks)
- (b) Describe **five** roles of the National Assembly, as outlined in the constitution of Kenya. (10 marks)
2. (a) (i) Explain the following terms as used in insurance contracts:
 - I. Premium;
 - II. Re-insurance;
 - III. Double insurance. (6 marks)
- (ii) Outline **three** rules that apply in cases of double insurance. (6 marks)
- (b) Explain **four** characteristics of negotiable instruments. (8 marks)
3. (a) (i) Explain the meaning of the following:
 - I. Direct legislation;
 - II. Indirect legislation. (4 marks)
- (ii) Outline **two** forms of delegated legislation. (4 marks)
- (b) Describe the procedure of a bankruptcy proceeding. (12 marks)
4. (a) Explain **five** conditions necessary for the stay of legal proceedings in the case of an arbitration agreement. (10 marks)
- (b) (i) Distinguish between gratuitous bailment and non-gratuitous bailment. (2 marks)
- (ii) Outline **four** duties of a bailor in a contract of bailment. (8 marks)
5. (a) (i) Explain **two** kinds of charter party in a contract of bailment. (4 marks)
- (ii) Describe **four** implied conditions in a contract of carriage of goods by sea. (8 marks)
- (b) Susan bought a sick cow from Peter, believing it was healthy. The cow had been infected with foot and mouth disease, a fact known to the seller. Subsequently, the cow died two weeks later and also left Susan's other stock infected.
 - (i) State the action that Susan should take against Peter. (2 marks)
 - (ii) Explain **three** remedies available to Susan. (6 marks)

6. (a) Simba, Sibuse and Gatonye are the only shareholders of SS & G Limited. The three went on a business trip in Egypt, where they perished in a plane crash. Giving reasons, explain whether the company continues to exist. (10 marks)
- (b) (i) Distinguish between a contract of guarantee and a contract of indemnity. (6 marks)
- (ii) Outline **two** ways in which a guarantor will be discharged from a continuing guarantee. (4 marks)
7. (a) (i) Describe **three** types of goods which form the subject matter of a contract of sale. (6 marks)
- (ii) Explain how price is fixed in a contract of sale. (6 marks)
- (b) Highlight the implied authority of a partner in a partnership business. (8 marks)

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