

2906/205

**COMMERCIAL AND ADMINISTRATIVE
LAW**

November 2018

Time: 3 hours



**THE KENYA NATIONAL EXAMINATIONS COUNCIL
DIPLOMA IN BUSINESS MANAGEMENT**

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.

Maximum marks for each part of a question are as indicated.

Candidates should answer the questions in English.

This paper consists of 2 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) Explain **five** implied conditions under a contract for the sale of goods. (10 marks)
- (b) A person ceases to be a partner in a partnership business on account of certain reasons. Explain **five** such reasons. (10 marks)
2. (a) Certain conditions should be met for an insurer to be entitled to contribution. Explain **six** such conditions. (12 marks)
- (b) Explain **four** rights of a guarantor against the creditor. (8 marks)
3. (a) Keni bought a Rolex watch for his wife while on a trip abroad. However, the strap was too long and the watch could not fit properly. Keni took the watch to Bao for adjustment. He was to collect it after two days. A day after the watch was delivered to Bao, he fired one of his employees who took away the watch. Keni could not get back the watch when he went to collect it. He is aggrieved and intends to sue Bao in a court of law. Explain the legal principles applicable in this case. (8 marks)
- (b) Outline **six** circumstances under which the court may decline to grant absolute discharge to a bankrupt. (12 marks)
4. (a) In relation to the law of carriage, explain **four** duties of a common carrier. (8 marks)
- (b) Outline the grounds on which a court of law may set aside an arbitral award. (12 marks)
5. (a) Explain **six** circumstances under which the court may order the compulsory winding up of a company. (12 marks)
- (b) Imani drew a cheque for Ksh 50,000 in favour of Bahati and posted it to him through the post office. Badili who usually collects Bahati's parcels collected it but forged Bahati's endorsement to obtain cash from Machachali, a local trader. Machachali paid the cheque into his account at Wote Bank. The bank then collected the cheque from Imani's bank. Bahati, on learning about the forgery, is aggrieved and demands payment from Imani. Explain the legal principles applicable in this case. (8 marks)
6. (a) Outline the purpose of administrative law. (8 marks)
- (b) Highlight **six** differences between administrative tribunals and ordinary courts. (12 marks)
7. (a) Explain **four** reasons for delegated legislation. (8 marks)
- (b) Outline **six** ways in which an administrator may ensure fairness to a person whose fundamental rights and freedoms are likely to be affected by an administrative action. (12 marks)

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