

2906/205
COMMERCIAL AND
ADMINISTRATIVE LAW
November 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) A dispute arose amongst three neighbours:-
John, Njenga and Mambo, regarding the distribution of utility bill arrears. John and Njenga have referred the dispute to Ngoma, a retired judge, for arbitration. Mambo is opposed to the arbitration arrangement. The arbitrator has fixed the liability in the ratios of 3:2:2 as to the John, Njenga and Mambo, respectively.
- (i) Comment on the award by the arbitration. (2 marks)
- (ii) Outline **five** advantages of the method in (i) above in settling of disputes. (10 marks)
- (b) Explain **five** grounds which necessitate compulsory winding-up of a public limited company. (8 marks)
2. (a) Distinguish between a sale and an agreement to sell. (12 marks)
- (b) Explain **four** shortcomings of judicial precedents in the administration of justice. (8 marks)
3. (a) Explain **five** reasons for the establishment of tribunals in Kenya. (10 marks)
- (b) Highlight **five** rights of a limited partner in a partnership business. (10 marks)
4. (a) Explain the powers of an administrator, appointed by a court of law, in the event of insolvency of a company. (10 marks)
- (b) Describe **five** principles of a contract of insurance. (10 marks)
5. (a) Outline **six** differences between a bill of exchange and a cheque. (12 marks)
- (b) Explain **four** reasons why parliament delegates its legislative powers to other government agencies. (8 marks)
6. (a) Explain **five** rights of a common carrier in a contract of carriage of goods. (10 marks)
- (b) Boyi and Bena have visited a shop in their neighbourhood. Boyi has seen a new design of a pair of jeans trouser. However, Boyi does not have money to buy it. Bena persuades the shopkeeper on behalf of Boyi with the following two different statements:
1. Let Boyi have the pair of trouser, I will see that you are paid.
 2. Let Boyi have the pair of trouser, if he doesn't pay, I will.
- (i) Differentiate between the two statements. (4 marks)
- (ii) Outline **three** ways by which Bena can be discharged from the liability on the contract. (6 marks)

7. (a) Yona left a bag containing a laptop with the security personnel at the entrance of a supermarket. After shopping, he returned to find the bag missing. He wants to sue the supermarket management for compensation.
- (i) Highlight the contract created in the case that may justify Yona's intended action. (2 marks)
- (ii) Highlight **four** duties of the supermarket under the contract identified in (i) above. (8 marks)
- (b) Explain **five** rights to natural justice which accord an accused person a fair hearing. (10 marks)

THIS IS THE LAST PRINTED PAGE.