

KASNEB

ATD LEVEL I

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COMMERCIAL LAW

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MONDAY: 22 May 2017.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

(a) With reference to the contract of sale of goods:

- (i) Define the term "unpaid seller". (2 marks)
- (ii) Describe four rights of an unpaid seller. (8 marks)

(b) In the context of the law of insurance:

- (i) Identify four principles that govern a contract of insurance. (4 marks)
- (ii) Explain three essential conditions required for the application of the doctrine of contribution. (6 marks)

(Total: 20 marks)

QUESTION TWO

- (a) (i) Highlight five factors which the court might consider when applying a judicial precedent. (5 marks)
- (ii) Identify five disadvantages of using judicial precedents as a source of law. (5 marks)
- (b) (i) Summarise four disadvantages of arbitration as an alternative dispute resolution mechanism. (8 marks)
- (ii) State two grounds upon which the court might issue an order for removal of an arbitrator from office. (2 marks)

(Total: 20 marks)

QUESTION THREE

- (a) (i) Explain two types of contracts that might be deemed as contrary to public policy. (4 marks)
- (ii) Identify six circumstances which might result in a contract being frustrated. (6 marks)
- (b) Outline five essential requirements for an agency by ratification to arise. (10 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Highlight three advantages and two disadvantages of Acts of Parliament as sources of law. (10 marks)
- (b) With reference to hire purchase contracts:
 - (i) Describe three salient features of a hire purchase contract. (6 marks)
 - (ii) Outline two ways in which the hirer in a hire purchase contract might terminate a hire purchase agreement. (4 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) Pam Agera was recruited as a football player for her college's football team. Pam Agera's team-mates, Liz Chep and Rita Ngeno, were very unhappy about having Pam Agera on their team. After her first team practice, Pam Agera went into the locker room alone but as she was getting ready to leave the locker room, Liz Chep and Rita Ngeno deliberately camped outside the locker room loudly describing to each other how they would violently make Pam Agera feel as miserable as possible until she quit the team or dropped out of college. Pam Agera was terrified and she locked herself inside the locker room until she finally felt it was safe to run home. Consequently, Pam Agera got so distressed that she quit the football team and dropped out of college altogether.

She feels aggrieved and intends to sue Liz Chep and Rita Ngeno.

Analyse four torts disclosed in the above case and advise Pam Agera accordingly. (8 marks)

(b) In the context of partnerships:

(i) Explain three liabilities of a minor partner. (6 marks)

(ii) Describe three duties of an existing partner. (6 marks)

(Total: 20 marks)

QUESTION SIX

(a) Identify four characteristics of a contract of guarantee. (4 marks)

(b) Describe four rights that a guarantor has against a creditor. (8 marks)

(c) Explain four distinctions between a “bill of exchange” and a “cheque”. (8 marks)

(Total: 20 marks)

QUESTION SEVEN

(a) With reference to the law of property:

(i) Identify four descriptions of public land. (4 marks)

(ii) Explain three reliefs that are available for copyright infringement. (6 marks)

(b) Summarise five questions that might be heard by the High Court under its jurisdiction to hear matters in respect of interpretation of the Constitution of your country. (10 marks)

(Total: 20 marks)

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