

EXAMINATION NO. _____



2016 EXAMINATIONS

KNOWLEDGE LEVEL

PAPER 2 : LEGAL FRAMEWORK

TUESDAY 6 DECEMBER 2016

**TIME ALLOWED : 3 HOURS
2.00 PM - 5.00PM**

INSTRUCTIONS

1. You are allowed **15 minutes** reading time **before the examination begins** during which you should read the question paper and, if you wish, make annotations on the question paper. However, you will **not** be allowed, **under any circumstances**, to open the answer book and start writing or use your calculator during this reading time.
2. Number of questions on paper - 7
3. The paper is divided into Sections **A** and **B**. All the **THREE** questions to be answered in Section **A** and **ANY TWO** from Section **B**.
4. Each question carries 20 marks.
5. Your answers should be supported by authorities, where appropriate.
6. This question paper should **not** be removed from the examination hall.
7. **DO NOT OPEN THIS PAPER UNTIL YOU ARE INSTRUCTED BY THE INVIGILATOR**

This question paper contains 4 pages

SECTION A

Answer all questions in this Section

1. (a) Explain the meaning of the term “doctrine of binding precedent”. **2 Marks**
- (b) Explain any **five** classes of judicial precedents. **10 Marks**
- (c) A precedent may cease to be binding and a judge may refuse to follow it.
Comment on this statement. **3 Marks**
- (d) Explain **five** advantages of judicial precedents (also known as case law). Give examples. **5 Marks**
- (TOTAL : 20 MARKS)**

2. (a) Explain the rule that consideration must move from the promisee. **10 Marks**
- (b) Peter Zanninge was employed to work in Thom Zuze’s garden for K10,000. The work was to be done within two weeks. Peter Zanninge did not complete the work in time as agreed. Thom Zuze promised Peter Zanninge that if he (Peter) worked harder and finished the work as quickly as possible, Thom Zuze would pay Peter Zanninge an extra K5,000. Peter Zanninge then worked harder than before and completed the work. He then claimed the extra payment of K5,000 but Zuze refused to pay him that extra amount.

Required:

- Advise Peter Zanninge on his legal position. **10 Marks**
- (TOTAL : 20 MARKS)**

3. (a) Explain what is meant by “anticipatory breach of contract”. **5 Marks**
- (b) Explain **three** ways by which a party to a contract may commit an anticipatory breach of a contract. **15 Marks**
- TOTAL : 20 MARKS)**

Continued/.....

SECTION B

Answer ANY TWO questions from this section

4. (a) Malata Ltd sold 100 iron sheets to Henry Bandawe on credit. The term of the contract of sale was that ownership in the goods would not pass to Henry until all the iron sheets had been paid for. Henry Bandawe sold 50 of the 100 iron sheets to Jackson Mango before he finished paying the loan. Jackson Mango had used these iron sheets to roof his house. Malata Ltd is now seeking repossession of the iron sheets from Henry Bandawe since he has not repaid the loan.

Required:

Advise Malata Ltd of its legal position.

10 Marks

- (b) In relation to sale of goods, state who bears the risk in case of loss of or damage to the goods.

10 Marks

(TOTAL : 20 MARKS)

5. (a) Dudu Ltd is a company limited by shares. Andrew paid for 100 shares out of his 150 shares issued to him. Dickson paid for 75 shares out of the 150 shares issued to him. David paid for all the 150 shares issued to him. The company has gone into financial difficulties. The company's creditors have threatened Dudu Ltd with liquidation if it fails to settle its debts within three months. The board of directors has appealed to shareholders to contribute to the company's debts in order to save it from going into liquidation.

Required:

Advise Dudu Ltd of its legal position.

10 Marks

- (b) Explain the difference between a **public** and a **private** company.

10 Marks

(TOTAL : 20 MARKS)

Continued/.....

6. (a) “Negligence is the omission to do something which a reasonable man guided upon those considerations which ordinarily regulate the conduct of human affairs, would do or doing something which a prudent and reasonable man would not do”, per *Alderson J* in ***Blyth v Birmingham Waterworks (1856) 11 Ex 781 Page 784.***

Required:

Explain the significance of the above citation.

10 Marks

- (b) The principal and agent relationship may sometimes be created by implied agreement.

Required:

Comment on this statement.

6 Marks

- (c) How is agency by *estoppel* created?

4 Marks

(TOTAL : 20 MARKS)

7. (a) Saimon Lundu was employed as a driver by Ndilongenji Ltd, a cotton processing company. Due to matrimonial problems with his wife at home, he was unable to report for duties for three days. His employer immediately issued him with a letter of dismissal since the employer thought that three days’ absence from work was sufficient evidence that Saimon did not like his job.

Required:

Explain the legality of Ndilongenji Ltd’s action on Saimon Lundu.

10 Marks

- (b) Explain the procedure which an employer must follow when conducting a disciplinary hearing of an employee who is alleged to have committed an act of misconduct.

10 Marks

(TOTAL : 20 MARKS)

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