

2903/106

2906/106

2907/106

2924/106

BUSINESS LAW

November 2016

Time: 3 hours



THE KENYA NATIONAL EXAMINATIONS COUNCIL

DIPLOMA IN SUPPLY CHAIN MANAGEMENT
DIPLOMA IN BUSINESS MANAGEMENT ✓
DIPLOMA IN CO-OPERATIVE MANAGEMENT
DIPLOMA IN INVESTMENT MANAGEMENT

BUSINESS 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 2 printed pages.

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

Plaintiff → Complainer??

Complainant - Com

- 1. (a) Explain **six** situations under which a court may **not** apply a precedent. (12 marks)
- (b) Explain **five** differences between public nuisance and private nuisance. (8 marks)
- 2. (a) Highlight **five** orders which the Court of Appeal may make in the execution of Appellant Jurisdiction. (10 marks)
- (b) Explain **five** offences that may be committed by a personal representative to an estate. *successor Appala* (10 marks)
- 3. (a) Explain **six** exceptions to the rule of complete and precise performance. (12 marks)
- (b) Joseph, an agent to Ben, contracted with Musa to purchase a second-hand lorry for Ben. Joseph did not disclose to Musa that he was acting as an agent. When the vehicle was delivered to Joseph, he refused to take delivery, claiming that Ben, his principal, had said that the price was too high. Musa sued both Joseph and Ben jointly and severally for breach of contract. However, Joseph was not able to pay the entire sum of damages awarded to Musa, while Ben declined to pay any part of it. Musa is aggrieved by Ben's refusal to pay. Ben claims that Musa had only dealt with Joseph. Musa intends to bring an action against Ben. Explain the legal principles applicable in this case. *agent is not supposed to appoint an agent* (8 marks)
- 4. (a) In relation to the law of property, explain **six** ways in which a lease may be terminated. (12 marks)
- (b) Outline **four** rights of an employee, as provided by the Employment Act, 2007. (8 marks)
- 5. (a) Explain **six** matters that a plaintiff may prove to succeed in a suit for misrepresentation. *Tort of Misrepresentation - Defence*
- Proving evidence of intention - Prove the writer knew but intentions.
- Proving it was him signed (12 marks)
- (b) Jedidah, who had a disease of the stomach, signed a document as consent to be operated on by a doctor. Two days after the operation, she complained of severe abdominal pain. On examination by another doctor, it turned out that some cotton wool had been left in her stomach. Consequently, another operation was done to remove the cotton wool. Jedidah is aggrieved and intends to sue her first doctor for negligence. Explain the principles involved in this case. *consent* (8 marks)
- 6. (a) In relation to the law of property, explain **five** types of mortgages. (10 marks)
- (b) Highlight **five** circumstances under which the President of Kenya may exercise prerogative of mercy. (10 marks)
- 7. (a) Explain **four** formalities that must be fulfilled in the preparation of a written will. *hearing of Petition - Petition*
- receiving order - interim receiver (8 marks)
- (b) Explain **six** circumstances under which an agent is said to have executed his duties. (12 marks)

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