

2906/205

COMMERCIAL AND ADMINISTRATIVE LAW

July 2023

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 spaces provided in this paper.

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.

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Turn over

1. (a) In relation to the law of partnership outline five guidelines on management of partnering business and affairs. (10 marks)
- (b) Highlight five reasons that may result in an insurance company canceling a customer's insurance policy. (10 marks)
2. (a) Explain four defenses a guarantor may have for not paying off the debt. (8 marks)
- (b) Outline six instances where a contract of bailment is created. (12 marks)
3. (a) In relation to the law of Bankruptcy, outline:
 - (i) two disqualification of a bankrupt. (4 marks)
 - (ii) three conditions under which the disqualification in (i) above shall be removed and cease. (6 marks)
- (b) Explain five measures put in place to control delegated legislation in Kenya. (10 marks)
4. (a) Legitimate expectation as a control mechanism has developed as part of the wider principle of fairness. Explain six principles that guide courts in determining whether an expectation is reasonable and legitimate. (12 marks)
- (b) Outline fair grounds upon which a court or tribunal may review an administrative action based on the person who made the decision. (8 marks)
5. (a) Outline six differences between an inquiry and a tribunal. (12 marks)
- (b) Hamisi leased out his motorcycle to Wafula for use in transport business (boda boda). However, Wafula, whom Hamisi had trusted with the registration documents, sold the motorcycle to Peter. A week later, Hamisi came claiming that the motorcycle belonged to him and had never belonged to Wafula. Peter has demanded a refund of his money from Wafula, but Wafula has declined. Peter is aggrieved and intends to take legal action against Wafula. Explain the legal principles applicable in this case. (8 marks)
6. (a) Explain five developments that pose challenges to administrative law. (10 marks)
- (b) Outline five disadvantages of incorporation of a company. (10 marks)

7. (a) Arbitration offers a better alternative to litigation. Outline six reasons in light of this statement. (12 marks)
- (b) Amina drew a cheque for Ksh, 200.000 in favour of Melisa and sent it to Melisa through post. Jamila intercepted the cheque, forged Melisa's endorsement and obtained cash for it from Bunda, a local shopkeeper. Bunda paid the cheque into his account at Tutenge Bank. Tutenge Bank collected the cheque from Swala Bank where Amina had an account. Melisa is aggrieved and intends to bring a legal action against Bunda, Amina and Swala Bank.
Explain the legal position of the parties in this case. (8 marks)

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