



MACHAKOS UNIVERSITY

University Examinations for 2021/2022 Academic Year

SCHOOL OF BUSINESS AND ECONOMICS

DEPARTMENT OF BUSINESS ADMINISTRATION

FIRST YEAR FIRST SEMESTER EXAMINATION FOR

BACHELOR OF COMMERCE

BBA 101 BUSINESS LAW 1

DATE: 1/2/2022

TIME: 8.30-10.30 AM

INSTRUCTIONS

Answer Question One and Any Other Two Questions

The constitution of Kenya in its preamble states that, “in acknowledging the supremacy of the Almighty God of all creation, honoring those who heroically struggled to bring freedom and justice to our land, proud of our ethnic, cultural and religious diversity, and determined to live in peace and unity as one indivisible sovereign nation, the Kenyan constitution is respectful of the environment, which is our heritage, and determined to sustain it for the benefit of future generations. It is also committed to nurturing and protecting the well-being of the individual, the family, communities and the nation.

In recognizing the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law. While exercising our sovereign and inalienable right to determine the form of governance of our country the constitution is given to ourselves and to our future generations. This creates the supremacy of the constitution.

Law is defined as the body of rules of conduct or action that has been prescribed by the controlling authority and has a legal binding force. Also, the law must be followed and obeyed by all the citizens. Failing to do so will result in legal consequences of the law. A person who fail to obey law will either have committed a crime or a civil wrong. In criminal court, a defendant is either acquitted or found guilty beyond a reasonable doubt. It is the responsibility of the state or government to prove that the defendant undoubtedly committed the **crime**. In a **civil** court, a plaintiff brings a lawsuit against a defendant.

The power to enact laws is a primary power of parliament. Parliament, however, frequently enacts legislation containing provisions which empower the executive government, or specified bodies or office-holders, or the judiciary, to make regulations or other forms of instruments which, provided that they are properly made, have the effect of law. This form of law is referred to as “delegated legislation”, “secondary legislation”, “subordinate legislation”.

In the light of the above grounds answer the following questions:

QUESTION ONE (30 MARKS)

- a) Give the reasons why the constitution is regarded as the supreme law of land in Kenya. (10 marks)
- b) Explain the purpose or functions of law (5 marks)
- c) Enumerate the advantages of delegated legislation in Kenya (5 marks)
- d) Distinguish between criminal and civil law (10 marks)

QUESTION TWO (20 MARKS)

- a) Equity law was developed to mitigate the harshness of common law. Discuss the shortcoming of common law. (10 marks)
- b) Customary law is applicable only in civil cases. The Magistrate's Court's Act restricts the civil cases to which African Customary Law may be applied. Disclose the matters on which African customary law can be relied. (10 marks)

QUESTION THREE (20 MARKS)

- a) Expound the establishment, composition and jurisdiction of the court of appeal in Kenya. (10 marks)
- b) Judicial review refers to examination of actions or inactions of public bodies by high courts. Reveal ten grounds for judicial review. (10 marks)

QUESTION FOUR (20 MARKS)

- a) Explain the essential elements of a valid contract. (10 marks)
- b) Describe the general defenses in torts (10 marks)

QUESTION FIVE (20 MARKS)

- a) Explain the remedies available for breach of contract. (10 marks)
- b) Distinction between Tort, Crime and Breach of Contract (10 marks)