



MACHAKOS UNIVERSITY

University Examinations for 2020/2021 Academic Year

SCHOOL OF BUSINESS AND ECONOMICS

DEPARTMENT OF BUSINESS ADMINISTRATION

SECOND YEAR SECOND TERM EXAMINATION FOR

DIPLOMA IN BUSINESS MANAGEMENT

2906/202/CL: COMMERCIAL AND ADMINISTRATIVE LAW

DATE: 3/6/2021

TIME: 8.30-11.30 AM

INSTRUCTIONS:

ANSWER ANY FIVE QUESTIONS.

1. a) In relation to the law of insurance explain
 - i. The category of persons who are presumed to have an insurable interest in a ship. (4 marks)
 - ii. The implied warranties in a policy of marine insurance (4 marks)
- b) Kamau asks Otieno to sell two wedding gowns on his behalf for Ksh 12,000 each for an agreed commission of 5%. Otieno purchases one of the wedding gowns for himself without disclosing this fact to Kamau. Otieno sells the second gown to Kuria for Ksh 15,000 and proceeds to give Kamau Ksh 12,000 for the second gown. Kamau has now discovered the full facts regarding the transactions. Kamau is aggrieved and seeks your legal advice.
 - i. State the principles applicable to this case
 - ii. Advice Kamau. (12 marks)
2. a) In relation to the law governing the sale of goods explain the remedies available to the buyer against the seller who is in breach of contract of sale. (12 marks)
- b) Explain the points of distinction between an unpaid seller's right of lien and right of stoppage in transit (8 marks)
3. a) Explain five acts held to be within the implied authority of a partner in a trading partnership (10 marks)
- b) Explain the applicability of the doctrine of separation of powers in Kenya. (10 marks)

- 4 a) In relation to the legislative process in Kenya
- i. Distinguish between public bills and private bills (10 marks)
 - ii. Explain the stages a bill passes before it becomes law. (10 marks)
5. a) Explain five reasons why parliament delegates legislative powers. (10 marks)
- b) Explain the grounds on which administrative action may be subject to judicial control (10 marks)
- 6 a) Explain the rights that a guarantor has against a creditor. (10 marks)
- b) A record of proceedings of an inferior court may be presented to the high court for purposes of obtaining a certiorari order. Explain five purposes for which the certiorari order may be used. (10 marks)
- 7 a) Outline two reasons for the establishment of administrative tribunals. (4 marks)
- b) Explain three disadvantages of establishment of tribunals in Kenya. (6 marks)
 - c) Explain five criticisms which have been levelled against delegated legislation (10 marks)