

# KASNEB

CPA PART I SECTION 1

CS PART I SECTION 1

CCP PART I SECTION 1

COMMERCIAL LAW

MONDAY: 21 November 2016.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

## QUESTION ONE

- (a) Explain three rules courts apply in the interpretation of statutes. (6 marks)
- (b) Describe three rules governing the liability of a retiring partner in the law of partnerships. (6 marks)
- (c) With reference to natural justice, highlight eight rights of an accused person in criminal proceedings. (8 marks)
- (Total: 20 marks)**

## QUESTION TWO

- (a) Sarah Ambuso and Haggah Mbone are business ladies whose offices are adjacent to each other. Recently, Sarah Ambuso accused Haggah Mbone of using magic in order to divert her customers to Haggah Mbone's office. Immediately thereafter, Sarah Ambuso wrote and distributed several leaflets to the occupants of neighbouring offices in which she accused Haggah Mbone of being a devil worshipper. Haggah Mbone feels aggrieved and intends to sue Sarah Ambuso.
- Analyse the legal principles applicable in the above case and advise Haggah Mbone. (10 marks)
- (b) Identify ten fiduciary duties imposed on an agent when acting primarily on behalf of a principal. (10 marks)
- (Total: 20 marks)**

## QUESTION THREE

- (a) Summarise four ways in which a contract might be discharged by operation of the law. (8 marks)
- (b) Explain three advantages of statutes as a source of law. (6 marks)
- (c) Distinguish between "civil law" and "criminal law" on the basis of the following aspects:
- (i) The parties. (4 marks)
- (ii) The burden of proof. (2 marks)
- (Total: 20 marks)**

## QUESTION FOUR

- (a) Discuss five circumstances under which a non-owner of goods might pass a valid title to the buyer in a sale of goods contract. (10 marks)
- (b) In relation to the law of property:
- (i) Highlight four elements of a patentable invention. (4 marks)
- (ii) Explain three types of property in land. (6 marks)
- (Total: 20 marks)**

## QUESTION FIVE

- (a) Summarise four ways through which a person might lose citizenship in your country. (8 marks)
- (b) With reference to the court structure in your country, outline the hierarchy of the magistrate's courts. (4 marks)
- (c) Describe four roles of the Attorney General in your country. (8 marks)
- (Total: 20 marks)**

**QUESTION SIX**

- (a) Explain three duties of a bailee in a bailment. (6 marks)
  - (b) Identify four legal consequences of non-registration of a hire purchase agreement. (4 marks)
  - (c) With reference to the law of insurance:
    - (i) Describe three grounds upon which the duty of disclosure is justified. (6 marks)
    - (ii) Identify two principles of insurance that support the main principle of subrogation. (4 marks)
- (Total: 20 marks)**

**QUESTION SEVEN**

- (a) Discuss the advantages and disadvantages of negotiation as a form of alternative dispute resolution. (10 marks)
  - (b) Explain five circumstances when the authority of a banker to pay a cheque drawn on his bank is terminated. (10 marks)
- (Total: 20 marks)**
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