

KASNEB

ATD LEVEL I

DCM LEVEL I

COMMERCIAL LAW

TUESDAY: 17 November 2015.

Time Allowed: 3 hours.

Answer any FIVE questions.

All questions carry equal marks.

QUESTION ONE

- (a) Distinguish between “procedural law” and “substantive law”. (4 marks)
- (b) Explain three remedies available to a defendant in civil actions. (6 marks)
- (c) With specific reference to case law as a source of law:
- (i) Highlight three advantages of case law. (6 marks)
- (ii) Identify two disadvantages of case law. (4 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Describe four ways through which a principal-agent relationship might arise. (8 marks)
- (b) Explain three duties of an agent. (6 marks)
- (c) A partner has implied authority to perform some functions on behalf of the firm.

With reference to the above statement, highlight three functions a partner could perform with implied authority.

(6 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Explain the meaning of the following terms as used in the law of contract:
- (i) Void contract. (2 marks)
- (ii) Voidable contract. (2 marks)
- (iii) Unenforceable contract. (2 marks)
- (b) Highlight three rules that govern consideration in a contract. (6 marks)
- (c) Discuss four advantages of administrative tribunals. (8 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Describe five duties imposed upon a tenant in a lease agreement. (10 marks)
- (b) With reference to sale of goods contract:
- (i) Distinguish between “sale” and “agreement to sell”. (6 marks)
- (ii) Explain four rules that apply for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer. (4 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) With reference to a bill of exchange, explain the following:
- (i) A holder in due course. (4 marks)
 - (ii) Circumstances which result in material alteration. (4 marks)
- (b) Outline three acts that might constitute trespass to land. (6 marks)
- (c) Highlight three defences available in an action for trespass to land. (6 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) (i) Define the term “insurable interest”. (2 marks)
- (ii) Describe various classes of persons presumed to have insurable interest. (8 marks)
- (b) (i) Explain the meaning of the term “presentment of a bill of exchange”. (2 marks)
- (ii) Discuss four types of endorsements that might be made on a bill of exchange. (8 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) With respect to resolving commercial disputes:
- (i) Outline six disadvantages of negotiation. (6 marks)
 - (ii) Highlight six advantages of mediation. (6 marks)
- (b) With reference to indemnity and guarantees:
- (i) Define a “continuing guarantee”. (2 marks)
 - (ii) Distinguish between a “guarantee” and an “indemnity”. (6 marks)
- (Total: 20 marks)**
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