

**KASNEB  
LAW**

**May 23rd 2014**

**Time allowed: 3 hours**

**QUESTION ONE**

- a) Define the term "law" (2marks)
- b) Outline four purposes of law in the society (8marks)
- c) A party making an application to the high court to set aside an arbitral award must furnish proof of certain matters.

With reference to the above statement describe the proof that the party must furnish (10marks)  
**(Total 20 marks)**

**QUESTION TWO**

- a) Where goods have been let under a hire-purchase agreement and two thirds of the hire-purchase price has been paid, the owner shall not enforce any right to recover possession of the goods from the hirer otherwise than suit.

Explain three consequences of contravention of the above provision by the owner. (6 marks)

- b) Describe three exceptions to implied agency (6marks)
- c) Discuss four circumstances under which the government might not be held liable in tort (8marks)

**(Total 20 marks) QUESTION THREE**

- a) Beatie Osolika took a fidelity medical policy with Hope Insurance Company Ltd. While completing the proposal form, Beatie Osolika answered in the affirmative a question by the insurance company asking, "are you pregnant?". Four months later, Beatie Osolika was admitted to the insurance company designated hospital where it was established that Beatie Osolika was a man and he had never been pregnant. Hope Insurance Ltd has since refused to settle Beatie Osolika's medical bill, and Beatie Osolika intends to sue Hope Insurance Company Ltd for payment.

Analyse the legal principle applicable in the above case and advise Beatie Osolika. (10 marks)

- b) In relation to public procurement, highlight three contents of an invitation to tender. (3marks)
- c) Outline four advantages of registering an "invention" in the context of intellectual property (4marks)

**(Total 20 marks)**

**QUESTION FOUR**

- a) Jasmin Mrongo, an accounts clerk at Cautious Company Ltd, prepared a cheque for Peter Kraft's signature. Peter Kraft was not a duly authorized signatory of Cautious Company Ltd. The amount on the cheque appeared in figures as sh.5,000 but was not written in words. Peter Kraft signed the cheque and gave it to Jasmin Mrongo who secretly altered the amount to read sh.95,000 and also wrote "ninety five thousand shillings" in words. Jasmine Mrongo then encashed the cheque at Mzalendo Bank, the company's bank. Jasmin Mrongo gave peter Kraft sh.5,000 and retained sh. 90,000 which she used to purchased a plot. Cautious Company Ltd has discovered the above facts and intends to sue Mzalendo Bank for negligence.

Analyse the legal principles applicable in the above case and advice Cautious Company Ltd (10marks)

- b) An agent should not make secret profit out of his agency except his remuneration. Describe five consequences of breach of this duty. (5marks)

- c) Explain five remedies which high court might award a party whose fundamental rights and freedoms have been infringed upon. (5marks)

**(Total 20 marks)**

**QUESTION FIVE**

- a) Describe four rules used by courts in interpretation of statutes (8marks)  
b) Discuss three types of trespasses (6marks)  
c) Explain two defences for each of the trespasses discussed in (b) above. (6marks)

**(Total 20 marks) QUESTION SIX**

- a) David Kama wrote to Lotha Muwe offering to sell his home. In the letter, David Kama advised Lotha Muwe to inform his (Lotha Muwe's) wife, Nicole Nyambura, about his acceptance or rejection of the offer.

Lotha Muwe wrote to David Kama accepting the offer without informing Nicole Nyambura.

Explain whether an agreement exists between David Kama and Lotha Nyambura. (8marks)

- b) Describe three conditions implied in a contract for sale by sample. (6marks)  
c) Summarise three rules governing a sale by auction. (6marks)

**(Total 20 marks)**

**QUESTION SEVEN**

- a) Discuss the circumstances under which the court might order dissolution of a partnership. (10marks)
- b) With specific reference to trade unions:
- i. Define a trade union. (2marks)
  - ii. Distinguish between "strike" and "trade dispute". (4marks)
  - iii. Highlight four rights of a trade union member. (4marks)

**(Total 20 marks)**