

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM III EXAMINATION

KENYA SCHOOL OF LAW
TOWN CAMPUS LIBRARY

LAW OF OTHER BUSINESS ASSOCIATIONS

27TH MARCH, 2019

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

Question One

- a) Explain five (5) differences between a partnership and a limited liability company. **(10 marks)**
- b) Describe five (5) legal principles for determining whether or not a person is a partner in a certain firm. **(10 marks)**
- c) Outline five (5) co-operative principles. **(5 marks)**

Question Two

- a) Explain five (5) rights of a partner in a partnership relationship. **(5 marks)**
- b) Outline ten (10) items that must be contained in the by-laws of a Co-operative Society in Kenya. **(10 marks)**

Question Three

- a) John and Peter wish to form a partnership for purposes of carrying on the business of an accountancy firm. Prepare a partnership deed for them setting out ten (10) items that should be provided for in such a deed. **(10 marks)**
- b) Outline five (5) items that should be discussed at an Annual General Meeting of a Co-operative Society. **(5 marks)**

Question Four

- a) Explain five (5) duties of a registered Co-operative Society. **(10 marks)**
- b) Outline the powers of the Commissioner for Co-operative Development with respect to a registered Co-operative Society. **(5 marks)**

Question Five

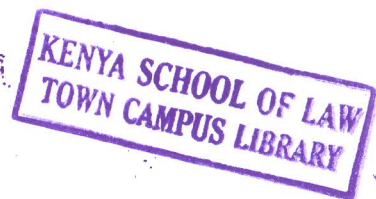
- a) Discuss three (3) types of partnerships recognized under Kenyan Law and indicate the key characteristics of each. **(9 marks)**
- b) Describe the nature of the relationship between a partner and their fellow partners and the firm. **(6 marks)**

Question Six

- a) Discuss four (4) ways in which the life of a partnership can come to an end. **(8 marks)**
- b) Explain three (3) legal ways through which a Co-operative Society can cease to exist under Kenyan Law. **(7 marks)**

END

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM III EXAMINATION

LAW OF OTHER BUSINESS ASSOCIATION

28TH MARCH, 2018

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 Marks**
- (c) All other questions carry **15 Marks** each

PLEASE TURN OVER

Question One

- (a) Define a Co-operative Society Ltd and explain how such a society differs from a partnership and from a company. (5 Marks)
- (b) Juma and ten of his neighbours who are all dairy farmers intend to form a co-operative society to market their milk. They have been told that for purposes of registration of the society, they require to prepare by-laws of the proposed society.

They have come to you for advice on the contents of the by-laws of their proposed society.

Prepare a report for Juma and his neighbours indicating then (10) items that should be contained in the by-laws. (20 Marks)

Question Two

- (a) Explain FIVE Co-operative principles upon which co-operative societies are founded. (5 Marks)
- (b) Every co-operative society shall have a committee which shall be the governing body of the society and which shall direct the affairs of the society.

Discuss FIVE processes of the management committee. (10 Marks)

Question Three

- (a) Explain THREE types of general meetings that a cooperative society may hold. (6 Marks)
- (b) Outline
- (i) FIVE duties of a cooperative society. (5 Marks)
- (ii) FOUR rights of members of a cooperative society. (4 Marks)

Question Four

Discuss the following in the context of their application to the law of partnerships:

- (a) Partnership Agreement (5 Marks)
- (b) Rules for determining the existence of a partnership. (5 Marks)
- (c) Liability of an incoming and outgoing general partner. (5 Marks)

Question Five

- (a) Discuss the ways in which a partnership may come to an end. (10 Marks)
- (b) Under what circumstances can a court issue a decree for the dissolution of a partnerships? (5 Marks)



Question Six

- (a) Musyoka and Mutua intend to set up a limited liability partnership firm to carry on the business of accountancy.

Discuss the information which the Registrar of Limited Liability Partnerships will require from them.

(10 Marks)

- (b) What are the powers of a liquidator under the Cooperative Societies Act (Cap. 490, Laws of Kenya)?

(5 Marks)

END

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THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM III EXAMINATION



LAW OF OTHER BUSINESS ASSOCIATION

30TH MARCH, 2017

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 Marks**
- (c) All other questions carry **15 Marks** each

PLEASE TURN OVER

Question One

- a) Mung'are a student at the Kenya School of Law Paralegal programme has not attended any of the classes relating to the law of other business Associations. He is however determined to do his exam and pass. He seeks your assistance in differentiation between companies and partnerships. Kindly assist him as you explain the same. (20 marks)
- b) A Partnership only lasts at the will of the partners and subject to any agreement (partnership deed) between the partners. Discuss. (5 marks)

Question Two

Briefly discuss the differences between the following aspects in the Law of Co-operative Societies:

- (a) Amalgamation and Division (3 Marks)
- (b) Inquiries and Inspections (3 Marks)
- (c) Secondary and Primary Co-operative Societies. (3 Marks)
- (d) A primary and A secondary resolution (3 Marks)
- (e) Members of the Society and members of the committee of the society (3 Marks)

Question Three

- a) Distinguish between the power of the liquidator and those of the commissioner during liquidation. (8 marks)
- b) Discuss the principles that govern co-operative societies. (7 marks)

Question Four

- a) What is meant by the term "goodwill" in a partnership business and what are the reasons why a partner is entitled to claim compensation by way of goodwill upon termination of a partnership business? (5 marks)
- b) One of the most fundamental doctrines in partnerships is the common law doctrine of "holding out" which is founded on the wider doctrine of estoppel. Briefly discuss this doctrine. (5 marks)
- c) All partners are collectively bound by the Acts or omissions of each other provided that their acts are within the scope of their action or apparent authority. Discuss. (5marks)

Question Five

- a) Explain the rules that have been set in partnership law in making a determination as to whether a partnership does or does not exist. (10 marks)
- b) Discuss the role of the Committee in co-operative societies. (5 marks)

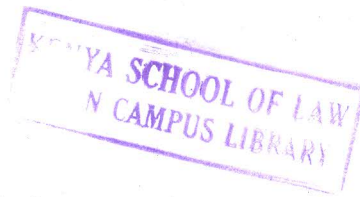
Question Six

Abdi is a member of the Ofafa building co-operative society that assists its members acquire property to secure their future. In 2016, he realized that despite all the other members of the society having received their dividends for the year, he did not receive any and the society has refused to pay the same for reasons he does not know and no one is willing to indulge him.

Being very frustrated, Abdi has resolved to take legal action against the society. Advise Abdi on the following:

- a) Disputes that may be presented to the co-operative society tribunal. (3 marks)
- b) Composition of the co-operative tribunal. (3 marks)
- c) Quorum and Award of the tribunal. (3 marks)
- d) Decisions that may be made by the High Court of appeal. (3 marks)
- e) Immunity in the tribunal. (3 marks)

END



THE KENYA SCHOOL OF LAW
DIPLOMA IN LAW (PARA-LEGAL STUDIES)
1ST YEAR TERM III EXAMINATION

LAW OF OTHER BUSINESS ASSOCIATION – DPS 211

31ST MARCH, 2016

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries 25 Marks
- (c) All other Questions carry 15 Marks each

PLEASE TURN OVER

QUESTION ONE:

The Private Institutions Lecturer Cooperative Limited (PILC) is a cooperative formed by lecturers tutoring in private higher learning institutions within Omi County. Its main objective is to provide its members with individual ownership of houses on easy payment terms.

Towards this end PILC has been receiving from its members remittances from their emoluments on account for the value of the to be purchased housing units. This is apart from the members' initial capital contribution towards the formation and membership of PILC. From these amounts PILC has purchased a 20 acre prime area property within the county.

PILC intends to enter into an arrangement with a Chinese based Xi'an Building and Construction Company Limited (XBCL) wherein XBCL will put up 40 bungalow-type housing units at its costs recoverable from the sale of 15 extra housing units. PILC will pay all expenses towards the transfer of the housing units, specifically the 25 housing units to its members. Thereafter the arrangement between PILC and XBCL will come to an end.

For the purpose of enabling the easy purchasing terms from its members PILC intends to convert into a deposit-taking institution.

- (a) Explain how PILC will protect itself from the employers' failure to remit deductions authorized by the lecturer-members from their emoluments. (6 Marks)
- (b) (i) Describe the most favourable arrangement PILC and XBCL can enter into to realize their goals. (2 Marks)
- (ii) Explain why this would be the ideal form of business organization to form between the parties. (8 Marks)
- (iii) Explain the impediment that would come in the way to restrict PILC and XBCL coming together under the business model/form suggested in (i) above. (4 Marks)
- (iv) Explain how PILC and XBCL can overcome this impediment. (4 Marks)
- (c) Identify the regulator that would regulate the business of PILC once it becomes a deposit taking organization. (1 Mark)
- SASRA*

QUESTION TWO: ✓

Quentin Malema had been an active partner with Indigo Hauliers until his resignation from the partnership on 17th February, 2016. Although he has since retired, Indigo Hauliers continues to, and does, get business from Imani Maize Meals Ltd and Astute Body Builders Limited. Imani Maize Meals Ltd had been using the services of Indigo Hauliers to transport their products throughout the country. However, they had had a falling out with Dengu Ncube one of the partners and had ceased using them from about six months before Quentin's resignation. They have since come back to do business with Indigo Hauliers as from the 1st March 2016 because of their relationship with Quentin. Astute Body Builders have been making trailers for Indigo Hauliers prime movers since January, 2015. Quentin still plays golf with Dengu and constantly passes his regards to all the clients of Indigo Hauliers. The partnership is now facing massive debts that it is unable to pay. Imani Maize Meals Ltd. and Astute Body Builders Ltd have sued Indigo Hauliers for their debts.

- (a) Explain the potential liability if any of Quentin Malema to the partnership debt. *Holding out. Notice.* (9 Marks)
- (b) Explain the grounds on which a partnership is **NOT** bound by an act or omission of a partner who is carrying on the business of the partnership. *Notice. Notice. Partner.* (6 marks)

QUESTION THREE: ✓

Majirani Farmers are a group of farmers engaged in the farming of the "Mathenge" shrub as a cash crop. They have come together and registered a Cooperative Society to address their unique experiences in dealing with this controversial "crop". They have lodged the required documents with the district cooperative officer. Upon return the DCO has signified that they have only managed to attain provisional registration.

- (a) Explain to Majirani Farmers what this status signifies describing to them the relevant provisions of the Cooperative Societies Act in this regard. (10 Marks)
- (b) ✦ List FIVE principles of cooperation. *Co-op Education. Op. El. Voluntary.* (5 Marks)

QUESTION FOUR:

In January, 2014, Harun, Itondi and Jomu formed a partnership, under the Partnership Act No. 16 of 2012, to run a pottery business trading under the name HIJ Potteries. On formation, Harun introduced Kshs.60,000 into the business, Itondi introduced Kshs.30,000 and Jomu introduced Kshs.10,000. All of them took an active part in the operation of the business and the partnership agreement stated that all the profits and losses should be divided in the proportions to the capital contribution. However, as Jomu was the person who would actively be making the pottery; it was agreed that he would not be liable for any more than his initial contribution towards any future debts and they registered the partnership designating Jomu as a Limited partner. Jomu's participation in management was therefore negated. Upon this requisition and the partnership was henceforth known as HIJ potteries LP.

After some time, Harun provided the partnership with a loan of Kshs.10,000 in order to sustain the operation of the business. Unfortunately, the business was not successful and made significant losses. It was at this time Jomu interjected himself into management as he thought he could make the difference. This however, did not have the desired effects and the fortunes of HIJ Potteries LP took a nose dive. The partnership incurred a loss of Kshs.40,000 during this period Jomu was Manager. The partners concluded that it would be best to stop and dissolve the partnership. Its assets were worth Kshs.50,000 and its total external debts were Kshs.90,000. In the context of the particular form of the partnership:

- (a) Explain the position of Jomu in relation to the arising debt of the partnership. (5 Marks)
- (b) Explain the potential liabilities of Harun, Itondi and Jomu for the partnership debts. (10 Marks)

QUESTION FIVE: ✓

"Kenya has a long history of cooperative development that has been characterized by strong growth, thus making a contribution to the overall economy".

- Per Nelson C. Kuria (Cooperatives in Social Development).

With reference to the statement above;

- (a) Explain the cooperative development policy and legislation the government has adopted to ensure cooperative development. (8 Marks) 10
- (b) Describe the Cooperative organizational structure in Kenya. (7 Marks)

QUESTION SIX: ✓

In the context of partnership law, focusing on the liability of the members, explain each of the following:

- (i) An ordinary partnership (4 Marks) 15
- (ii) A limited partnership (5 Marks) 25
- (iii) A limited liability partnership (6 Marks)

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DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM III EXAMINATION

LAW OF OTHER BUSINESS ASSOCIATIONS

14TH APRIL, 2015

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 Marks**
- (c) All other questions carry **15 Marks** each

PLEASE TURN OVER

Question One:

(a) Talash and fifteen of her former college-mates are unable to get formal employment. They intend to pool their resources to start some business for their economic development. They feel that their hope largely lies in a co-operative society to realize their objective. They have come to you for advice on how to go about starting a co-operative society. Advise them of the requirements they need to meet to enable them register a co-operative society.

(15 marks)

(b) Explain the essential elements of a partnership.

(10 marks)

Question Two:

Geo, Ho and Lo formed a partnership three years ago to run a business. They each provided capital to establish the business as follows:

Geo - Kshs.200,000/=
Ho - Kshs.120,000/=
Lo - Kshs.80,000/=

The partnership agreement stated that all profits and losses were to be divided in proportion to the capital contribution. After 18 months, Geo provided the partnership with a loan of Kshs.30,000/= in order to finance the purchase of more inventory. The loan was to be paid back from the profits of the business.

Unfortunately, the business was not successful and the partners decided to dissolve the partnership rather than risk running up any more losses. At the time of the dissolution of the partnership its assets were worth Kshs.200,000. Its external debts were Kshs.7,000/= and none of the debt to Geo has even been paid.

Advise the partners as to how the financial aspects of the dissolution will be conducted and how the assets will be distributed.

(15 marks)

Question Three:

(a) Describe the structural framework of the cooperative movement in Kenya.

(9 Marks)

- (b) Explain the duties of the Registrar regarding the registration of charges.

(6 marks)

Question Four:

- (a) Explain the characteristics of a partnership formed under the Limited Liability Partnership Act (Cap 30A).

(9 marks)

- (b) Explain which companies are eligible to convert to limited liability partnership.

(6 marks)

Question Five:

The Cabinet Secretary in charge of the Industrialization docket, which also oversees the Ministry for Co-operative Development, intends to appoint a person as chair of the Co-operative Tribunal. He has come to you for advice.

Advise him on:

- (i) The composition of the Co-operative Tribunal.

(9 marks)

- (ii) The rules governing quorum for the Tribunal.

(6 marks)

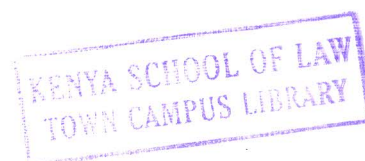
Question Six:

A partner is always considered to be an agent of another partner and the partnership.

- (i) Explain the circumstances, under the provisions of the Partnership Act Cap 29 when one partner would be held to be an agent of the partnership and the other partners.

- (ii) Explain the exceptions to the general rule above.

(15 marks)



KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM III

LAW OF OTHER BUSINESS ASSOCIATIONS

TUESDAY 25TH MARCH, 2014

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 Marks**
- (c) All other questions carry **15 Marks** each

PLEASE TURN OVER

QUESTION ONE IS COMPULSORY

1. a) Maina and Njuguna proposed to start a law firm together as equal partners after their admission to the Bar. They sat and came up with a budget of what would be required and the cost of each item. In the meantime, Maina proposed that there was a place where he had seen some furniture and the price was reasonable. They agreed that he could go ahead and order the furniture for safe keeping before they could identify the premises to locate the firm. Before they actually set up the firm, the relationship strained and the firm never commenced. The company by the name "African Furniture Ltd" which had delivered the furniture sued Njuguna saying that they were in a partnership business and he was therefore liable to pay for the furniture. With the aid of decided cases, advise Njuguna as to whether or not he may be found liable in a court of law.

(8 marks)

b) (i) Define a Partnership.

(1 mark)

(ii) Discuss the elements of the definition you have given above (b(i)).

(4marks)

c) Explain the significance of being able to draw a distinction between partnership property and individual partner's property.

(6 marks)

d) Highlight the relationship of partners to outsiders to the partnership business.

(6 marks)

SECTION B: ANSWER ANY THREE QUESTIONS OF THIS SECTION

2. a) Explain three main duties of partners in a partnership business.

(9 marks)

b) One of the fundamental provisions of the Articles of partnership is the "nature of business". Explain the significance of setting out this aspect clearly in the partnership deed.

(6 marks)

3. a) Explain the main feature of limited liability partnership Act. 2011(LLP).

(10 marks)

- b) "Determining whether or not a partnership exists is not an easy task. In fact, it is possible that individuals are in a partnership and they do not know". Anonymous.

In line with this proposition, discuss the specific indication that are critical in determining whether or not a partnership exists.

(5 marks)

4. Ali Abubakar your long time friend has just won Kshs.100,000 in a Safaricom promotion "Jaza Ushindi". He has approached you and he seeks your advice on how to invest this money since he is aware of your knowledge in business law matters. He has even promised you a share of the money if you would give him what he would consider to be sound advice.

Prepare a brief outline of the important features of each form of business and the merits and demerits of the same that you would use in your discussion with him.

(15 marks)

5. a) Explain the instances when a partnership may be dissolved by the court.

(10 marks)

- b) Highlight the characteristic features of a limited partnership.

(5 marks)

6. a) Highlight any **FIVE** rights of a partner in a partnership business.

(10 marks)

- b) Explain how partnership property is held in law.

(3 marks)

- c) Explain the meaning of the term "Joint Venture".

(2 marks)

KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)
2ND YEAR TERM III

LAW OF OTHER BUSINESS ASSOCIATIONS

WEDNESDAY 3RD APRIL, 2013

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 marks**
- (c) All other questions carry **15 marks** each

PLEASE TURN OVER

QUESTION ONE

- a) Discuss the legal characteristics of the following types of business associations. (16 marks)
- i) Sole Proprietorship
 - ii) Partnership
 - iii) Company
 - iv) Co-operative
- b) Describe the specific legal indications as to whether or not a partnership exists. (4 marks)
- c) Outline **TEN** clauses that are important to every Articles of Partnership (5 marks)

QUESTION TWO

- a) Explain why it is very important to set out the nature of business clearly in a partnership agreement. (6 marks)
- b) Discuss the significance of distinguishing partnership property from personal property in a partnership relationship. (9 marks)

QUESTION THREE

- a) Highlight any **SIX** rights of a partner in a partnership relationship. (12 marks)
- b) Describe how partnership property is held. (3 marks)

QUESTION FOUR

- a) Discuss any **THREE** duties of a partner in a partnership relationship. (6 marks)
- b) Explain the following concepts with regard to partners' relationship with outsiders: (9 marks)
- i) Partners as agents
 - ii) Liability for a partner's torts and other wrongful acts
 - iii) Liability by holding out.

QUESTION FIVE

- a) Outline any **SIX** instances when a partnership may be dissolved by the Court. **(12 marks)**
- b) Highlight how the assets of a partnership should be applied upon dissolution. **(3 marks)**

QUESTION SIX

- a) Discuss the rules for final settlement of accounts. **(7 marks)**
- b) Explain the significant features of a Limited Liability Partnership. **(8 marks)**

COUNCIL OF LEGAL EDUCATION



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

KENYA SCHOOL OF LAW
LIBRARY

LAW OF OTHER BUSINESS ASSOCIATIONS

WEDNESDAY 11TH MAY, 2011

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 marks
- (c) All other questions carry 15 marks each

PLEASE TURN OVER

QUESTION ONE

(a) Highlight some of the characteristic features of the following forms of business organizations:

- (i) Sole proprietorship
- (ii) Partnership
- (iii) Company
- (iv) Co-operation

{12 marks}

(b) Define a partnership.

{1 mark}

(c) "Determining whether or not a partnership exists is not an easy task. In fact, it is possible that individuals are in a partnership and they do not know." *Anonymous*

In line with this proposition, discuss the specific indications that are critical in determining whether or not a partnership exists.

{6 marks}

(d) Mvita and Mkali proposed to start a law firm together as equal partners. They sat and came up with a budget of what would be required and the cost of each item. In the meantime, Mvita proposed that there was a place where he had seen some furniture and the price was reasonable. They agreed that he could go ahead and order the furniture for safe keeping before they could identify premises to local the firm. Before they could actually set up the firm, the relationship strained and the firm never commenced. The company known as 'All Beauty Ltd' which had delivered the furniture sued Mkali saying that they were in a partnership business and he was therefore liable to pay for the furniture.

With the aid of already decided cases, advise Mkali as to whether or not he may be found liable in a court of law.

{6 marks}

QUESTION TWO

(a) One of the fundamental provisions of the articles of partnership is the 'nature of the business'. Explain the significance of setting out this aspect clearly in the partnership deed.

{7 marks}

(b) Explain the significance of being able to draw a distinction between partnership property and individual partner's property.

{8 marks}

QUESTION THREE

- (a) Highlight any SIX rights of a partner in a partnership business. {12 marks}
- (b) Explain how partnership property is held in law. {3 marks}

QUESTION FOUR

- (a) Explain THREE duties of partners in a partnership business. {9 marks}
- (b) Highlight the relationship of partners to outsiders to the partnership business. {6 marks}

QUESTION FIVE

- (a) Explain the instances when a partnership may be dissolved by the court. {12 marks}
- (b) Under s.43 the Act provides for how the assets of a partnership should be applied upon dissolution. Outline. {3 marks}

QUESTION SIX

- (a) Explain the rules applicable to the final settlement of accounts upon the dissolution of a partnership, as envisaged under s.48. {7 marks}
- (b) Highlight the characteristic features of a limited partnership. {8 marks}

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