



The Co-operative University of Kenya

END OF SEMESTER EXAMINATION DECEMBER-2019

**EXAMINATION FOR THE DEGREE OF MASTER OF CO-OPERATIVE
MANAGEMENT (YR I SEM II / YR II SEM I)**

UNIT CODE: COMC 4201

UNIT TITLE: BUSINESS LAW AND CO-OPERATIVE LEGISLATION

DATE: 17TH DECEMBER, 2019

TIME: 9:00 AM – 12:00 PM

INSTRUCTIONS:

- Answer question **ONE (compulsory)** and any other **THREE** questions
- Use appropriate examples where necessary.

QUESTION ONE

Julius has bought a parcel of land in Isinya, an area that has recently been supplied with water for irrigation, hence becoming quite productive in the cultivation of watermelons, tomatoes and onions. The challenge, however, has been in the marketing of these produce which now flood the market leading to low pricing which also tend to lead to a lot of wastage and thus losses to the farmers.

Julius has lobbied his neighbours to come together and form a Cooperative Society. They approach you as an expert in the areas for advice.

- a) With the aid of relevant examples, explain to them the basic principles under which cooperatives operate. (15 Marks)
- b) Describe to them the steps/procedure for registration of a cooperative society. (15 Marks)
- c) The Society wishes to engage a person to put up its offices. Since they do not have enough amount of money, they agree with ABC Architects to assist in putting up simple structures. The employees to help the architect are to be brought by the architect, but are

By applying the relevant legal rules, examine how it will be possible to determine whether the architect is under a contract of service or contract for service. (10 Marks)

QUESTION TWO

Allan is the Executive Director of Peponi Cooperative Ltd., a primary cooperative society that aims to improve the living standards of young Cooperative University graduates by providing soft loans to help them develop business start-ups in Nairobi. KRA officials and Police investigators have been coming around to the office offices threatening to shut down the office

and arrest employees as the society is not validly registered and has also not been remitting taxes and statutory deductions.

Allan believes that the Society is validly registered and that all this is being done with a view to solicit bribes from the Society as well as due to the older entrepreneurs paying the police to frustrate the new start-ups that have been growing very fast, thus giving them steep competition.

Explain to Allan the applicable sources of Kenyan law that could be used in respect of the contentions arising from this matter. (20 Marks)

QUESTION THREE

a) Explain the general principals applicable to insurance law in Kenya. (10 Marks)

b) Define a wager and discuss the similarities and distinctions between insurance and wager. (10 Marks)

QUESTION FOUR

Albert, the Managing Director of Mikahawa Cooperative Society, is looking to strengthen service delivery by the Society by engendering information communication technology into its operations. He is approached by three enterprising boys from very poor backgrounds who have just completed the Kenya Certificate of Secondary Examinations and are awaiting to join university to pursue Computer Engineering. Currently, they occupy their time by selling and servicing computer and accessories. They are also very good at installations and repairs of electronics. They want to save the money from their business so that they can pay the tuition fees when they join university.

Albert wants to purchase computers and computer accessories for the Society. He thinks that these boys would provide the best deal. He is, however, not sure of how to go about it.

Discuss the legal principles of contract that will be employed to determine whether Albert can enter into a retainer contract with the boys, and explain the legal requirements that will make a contract in the nature of that sought to be entered into enforceable. (20 Marks)

QUESTION FIVE

Douglas who hails from West Pokot, a semi-arid area in Kenya, wanted to guarantee his access to water. He thus constructed an artificial lake in his parcel of land after discussing it with his neighbor Peter. Although Peter had initially been afraid that the lake would make the area unstable and could even lead to flooding during the rainy season, to allay his concerns, Douglas promised him that he would also be able to access water from the lake during the dry season.

Due to poor quality of the workmanship, the lake was weak and could not withstand heavy rains. Further, in order to take advantage of the available water from Douglas' lake, Peter also went ahead and dug up his parcel of land near the lake thereby making the area quite unstable.

Last year, there was an extraordinary heavy downpour in West Pokot as had never been experienced before. This led to the lake breaking its bank and flooding the entire area. Peter's house was completely destroyed by the water.

Peter went to Douglas' house to complain about the destruction. A quarrel ensued and Douglas ordered Peter to leave his property forthwith. Peter was so exasperated that he threw the stick he was carrying which hit Douglas' Dog, in response, Douglas punched Peter on the nose and frog matched him out of the compound.

Identify and discuss the particular torts committed and the general defenses that would be available to the parties in the ensuing legal action suit. (20 Marks)