



**AFRICA
UNIVERSITY**

A United Methodist-related institution

"INVESTING IN AFRICA'S FUTURE"

COLLEGE OF BUSINESS, PEACE, LEADERSHIP AND GOVERNANCE

END OF FIRST SEMESTER EXAMINATIONS

NOVEMBER/DECEMBER 2017

COURSE TITLE: BUSINESS LAW AND ETHICS

LECTURER : MRS V. ZVIUYA

TIME : 3 HOURS

INSTRUCTIONS

1. Answer five [5] questions.
2. You must answer all questions from section A and any three questions from section B. You must answer all the questions in section C
3. Start each question on a new page.
4. The marks allocated to each question are shown at the end of the question.
5. Neat, logical and systematic presentations will earn you credit.

SECTION A.

1. Discuss in detail the reasoning of the courts relating to Labour Law in Zimbabwe as enunciated in the case of **Minerals Marketing Corporation of Zimbabwe v John Mazvimavi 1995 (2) ZLR 353 (S)**. (15)
2. a) How has the legislature in Zimbabwe dealt with unfair penalty clauses in contracts? [5]
b) Nancy rents a shop in town from Johannes. The shop is leaking badly whenever it rains. She has approached Johannes who insists that it is her common law duty as a tenant to repair the leaking roof. Explain in few paragraphs whether Johannes's claim is a correct statement of the law? [3]
c) What is conciliation in labour law and does that process lead to an award being given by the conciliator? [1]
d) Distinguish between arbitration and conciliation in labour law? [1]
e) Is it legally tenable for a party to raise the defence that there is an impossibility of performance arising from his own wilful or negligent act? Explain briefly. [3]
f) Define tacit emancipation [2]
g) What is the standard of care expected from an agent carrying out a mandate? Explain with the aid of examples [3]
h) List four (4) differences between a cooperative and a company [2]

SECTION B

3. "The concept of the existence of a company as a separate entity distinct from its shareholders is not merely artificial and technical thing, but a matter of substance.....However a limited company may be a powerful weapon in the hands of one determined on fraud or defeating creditors rightful claims"
a) Explain the principle of corporate personality of a company. [10]
b) Explain five [5] instances where the corporate veil may be pierced on public policy grounds or on the basis of statute. [10]
4. To what extent, if at all, does the Turquand Rule constitute one of the fundamental distinctions between a company and a partnership? [20]

5. It is now mandatory in terms of the Environmental Management Act to carry out an Environmental Impact Assessment Plan (EIAP) before carrying out major developments like dam construction, mining, road construction etc.

- a) Why is it necessary to carry out such an assessment? [3]
- b) Explain five elements you would include in the EIAP? [5]
- c) Explain briefly using examples why it is necessary to legislate on Ethics in business? [6]
- d) Explain the ethical questions that arise when a company is deciding to restructure in such a way that will lead to lay offs of employees. [6]

6. "A partnership is not a separate legal persona at law."

- a) Explain what is meant by this statement? [5]
- b) Explain the advantages and disadvantages of this business arrangement as compared to a company. [10]
- c) Explain agency by implied authority [3] and agency implied by conduct? [2]

7. "The law recognises too many grounds which allows a party to walk out of a contract" Explain the following terms:

- a) Compromise
- b) novation
- c) Revocation
- d) merger and
- e) Prescription (20)

SECTION C

8. You buy a car from Peter who has advertised it in the newspaper. You inspect the car by looking at the tyres, paint work, the exhaust, the suspension, the interior and the engine. The salesman informs you that the car is in "perfect working condition" and has just undergone an engine overhaul. The salesman further states that the model in question is the best model that has ever been manufactured. After test driving the vehicle and you have expressed satisfaction with it, you then pay the full purchase price and take possession of the vehicle. On the drive home the car breaks down and you are advised by the mechanic that one of the pistons has broken. After closer inspection it is discovered that the broken piston shows signs that it must have broken before and was welded to repair it. You then confront Peter about the broken piston and he is unwilling to assist you in any way.

- a) What remedies do you have against Peter and why? (5)

- b) Does the fact that you inspected the vehicle before buying it work against you or any claim that you may have? (5)
- c) Does the fact that you repaired the broken piston after discovering that it was faulty affect your rights at law? (5)
- d) Would your answer be any different if you had bought the car on a voetstoots basis from Peter? (3)
- e) What form of a defect does the car in the above facts have and explain the nature of the defects in detail? (2)
- f) How has the state intervened in contracts with penalty clauses? (5)

END OF PAPER