

# CENTRAL UNIVERSITY



## END-OF-SECOND SEMESTER EXAMINATION – 2017/2018

FACULTY OF LAW  
BACHELOR OF LAWS (LL.B)  
LEVEL 100 & 200  
LAW 102: Legal Methods (3 Credits)

Saturday, 11<sup>th</sup> May, 2019

TIME ALLOWED: TWO AND A HALF (2 ½) HOURS

### INSTRUCTIONS

1. There are a total of six (6) questions. Candidates are to answer three (3) questions only.
2. **Question One (1) is compulsory** and must be answered by all students.
3. Answer Sheets will be provided. Each answer must begin on a fresh page.
4. Any extra answer sheet should be properly tied to the original answer sheet.
5. Marks will be awarded for good presentation, clarity in legal reasoning and proper use of legal authorities.
6. Please write LEGIBLY

**DO NOT TURN OVER THIS PAGE UNTIL YOU HAVE BEEN TOLD TO DO SO BY THE INVIGILATOR.**

*Examiners:* NICHOLAS FREDUAH KWARTENG ESQ. & EMMANUEL OPARE-WIREDU

### QUESTION 1

Answer all of the following questions.

- a. What is the doctrine of separability in arbitration?
- b. What is the statutory number of arbitrators to be appointed in a customary arbitration?
- c. State three circumstances under which the award of a customary arbitration may be set aside.
- d. State three of the grounds based on which a court may refuse to grant bail to an accused person
- e. List four (4) of the categories of offences
- f. State two of the pleas available to an accused person who has been arraigned before a court.
- g. List three (3) of the linguistic canons of construction.
- h. State two (2) of the factors which a court may take into account in determining the likelihood of an accused person absconding if granted bail.
- i. Within what time scale is the defendant who has been served with a Writ and Statement of claim required to file his Notice of Entry of Appearance?
- j. What is the name of the court official whose responsibility it is to serve the Writ and Statement of Claim on the defendant?
- k. State three circumstances under which the award of a customary arbitration may be set aside.
- l. What happens if a party to an agreement is not notified of an arbitration proceedings arising under that agreement?

[30 Marks]

### QUESTION 2

“The purposive rule is however, not a *carte blanche* for rewriting legislation ... and should never be used as a ruse, a cloak or guise to do so. The function of a court is to interpret legislation and give effect to it, even where the terms appear unpalatable. Care must be taken to avoid legislating under the guise of interpretation”. – Georgina Wood, CJ in the *Republic v High Court, Accra; Ex parte CHRAJ (Richard Anane, Interested Party)* [2007-2008] 1 SCGLR 213 at 250.

- a. With the aid of decided cases evaluate the above statement paying particular attention to the various rules used by the courts to interpret statutes.
- b. Explain four (4) internal aids to interpretation
- c. State and explain three (3) linguistic canons of construction

[15 Marks]

### QUESTION 3

Critically appraise the fair trial rules as provided for article 19 of the Constitution of the Republic of Ghana, 1992.

[15 Marks]

### QUESTION 4

How is mediation different from arbitration? What would you say are their respective advantages and disadvantages? What are the essential requirements of customary arbitration?

[15 Marks]



### QUESTION 5

In Donkokrom in the Central Region of the Republic of Ghana, Nana Yaw Oduro III a true royal was installed as a chief. He had his name registered in the register of both the Regional and National House of Chiefs after swearing the oath of allegiance to the Omanhene of his Traditional Area, Nana Daakye Ababio IV at Kotipo and has exercised all functions as a chief.

In 2012, Nana Yaw Oduro III has an altercation with his linguist in public and slapped the linguist. The youth of the town are upset and as this is a destoolable offence in customary law, they have consulted your law firm, Naatwei Chambers to initiate an action in the Circuit Court, Cape Coast on their behalf. Your senior partner has referred this matter to you to write a legal opinion for the youth of the town to enable them get rid of this incorrigible chief who on countless occasions had committed more serious destoolable offences but has refused to change regardless of the admonitions by the kingmakers of Donkokrom.

Your legal opinion should certainly focus on how the chief could be destooled, the forum for hearing the case, up to the last forum where the case may ultimately end and when it would be appropriate to seek a remedy at the High Court. **[15 Marks]**

### QUESTION 6

**ANSWER EITHER (a) OR (b)**

- a. Critically examine the appointment and removal procedures of the Chief Justice of the Republic of Ghana? **[15 Mark]**

**OR**

- b. "The Supreme Court may, while treating its own previous decisions as normally binding, depart from a previous decision when it appears to it right to do so; and the Courts lower than the Supreme Court shall follow the decisions of the Supreme Court on questions of law." Section 2(3) of the Courts Act, 1993 (Act 459) (as amended).

Discuss section 2(3) of Act 459 in the light of the concept of judicial precedent and the circumstances under which a lower court may depart from the decision of a superior court. **[15 Marks]**