

CENTRAL UNIVERSITY



LIBRARY
CENTRAL UNIVERSITY

END-OF- SECOND SEMESTER EXAMINATIONS: 2016/2017

FACULTY OF LAW

LAW 102: Ghana Legal System & Legal Methods II

Saturday 17th June 2017

TIME ALLOWED: 2 HOURS: 30 MINUTES

LEVEL 100 & 200

STUDENT ID No.....

INSTRUCTIONS

LIBRARY
CENTRAL UNIVERSITY

There are a total of five (5) questions. Candidates are to answer three (3) questions only.

Question One (1) is COMPULSORY and MUST be answered by ALL students.

Begin each answer on a fresh page on your answer booklet.

Any extra answer sheet should be properly tied to the original answer sheet.

Marks will be awarded for neat presentation, clarity in legal reasoning and proper use of legal authorities.

Please write **LEGIBLY!**

Candidates are allowed 10 minutes to preview the questions before the start of the examination

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

Examiners: Justice Alexander Osei Tutu, Justice Samuel Asiedu, Mr. Ernest Kusi and Ms. E. Baboa Opoku.

QUESTION 1

Kwame and Kojo have been friends since childhood and transitioned smoothly into business partners in their adult years. On many occasions, the two have executed contracts together as co-distributors of building materials to several of their clients.

On one occasion, Kwame won a bid to supply materials to Fengshui Construction Company (FCC), a foreign company, for the construction of a local sports stadium in Bibiani in the Western Region. Kwame decided to go solo this time and a contract was thus duly executed between himself and FCC for the supply of materials to the site where the construction was to take place.

Kwame had taken stock of his goods at the warehouse which were scheduled to be delivered to the site on 20th April, 2016. The night before however, armed robbers broke into the warehouse and made away with a large quantity of the materials Kwame was to deliver to site. Kwame was thus unable to fulfill his obligations under the contract and delivered only a third of the quantity of the materials provided for in the contract to the site. It was rumored that the goods were stolen by Kojo's workers who are disgruntled at Kwame for leaving their master out of his recent contract.

FCC was disappointed that Kwame was unable to supply the quantity of materials agreed to in the contract and subsequently filed a writ against Kwame at the registry of the Bibiani High Court for breach of contract on 30th April, 2016. The writ was endorsed for damages as part of the reliefs, including the provision of the remainder of the material to be supplied for the construction of the stadium. However, Kwame never got served with the writ for unexplained reasons.

FCC hired Henry-Rudolf Bonaparte Acquah as the new head of legal on 30th April 2017 and charged him to give immediate attention to the writ of 30th April, 2016 which was taken out against Kwame.

As an intern at the Legal Department of FCC, you have been asked by Henry-Rudolf Bonaparte Acquah to draft a memo indicating the various steps to be followed from the issuance of the writ of summons to the time that judgment may be entered at the High Court. Indicate in your memo whether an entirely new writ ought to be issued or the writ of 30th April 2016 may be re-used.

[40 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 @ 250.

With the aid of decided cases and other relevant authorities, discuss the traditional rules of statutory interpretation providing relevant examples of their application in Ghana.

[30 marks]

QUESTION 3

Answer EITHER:

a.) Discuss the role and powers of the Attorney - General in both civil and criminal proceedings under the **Constitution of Ghana, 1992**, and other relevant authorities.

[30 marks]

OR:

b.) Compare and contrast the features of Arbitration and Customary Arbitration as provided for under the **Alternative Dispute Resolution Act, 2010, Act 798**

[30 marks]

QUESTION 4

Answer BOTH:

a.) What is meant by “*taking the plea of an accused person*” in a criminal trial? Discuss the options available to the accused person at that stage of the proceedings.

[15 marks]

AND:

b.) What is meant by the “*plea of clemency*” in a criminal trial? Discuss the effect of this plea with regards to the factors taken into account during sentencing.

[15 marks]

QUESTION 5

Write short notes on *any five (5)* of the following concepts and provide relevant authorities or illustrations where applicable:

- a.) Kompetenz-kompetenz
- b.) Summary of evidence
- c.) Voire dire
- d.) Noscitur a sociis
- e.) Challenge for cause
- f.) Garnishee order
- g.) Nolle prosequi

[30 marks]