

## **BUSINESS LAW CAT**

### **CAT 1**

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### **1. List and briefly explain five advantages of statute law and two disadvantages of statute law.**

#### **A. Advantages of statute law**

a. Democratic, statute law follows parliamentary law making which is the most legislative process.

B. Dynamic, it enables keep pace with change in other fields for example, political, social and economic.

C. Durability, statute law is applicable in different times in different circumstances.

D. Uniformity, statute law applies indiscriminately that it does not choose gender, size, race or tribe hence promoting equality and peace.

E. Adequate publication, statute law is the most widely published for example it can be found in Kenyan gazettes and magazines.

#### **B. Disadvantages of statute law**

A. Imposition of law, statute law does not reflect wishes of the citizens which deeply states that it does not cater for their major interests as a whole.

B. Formalities, this means that statute law is slow to urgent needs needed by the citizens or that in need hence also considered time consuming.

### **2. State and briefly explain four advantages of delegated legislation and four disadvantages of delegated legislation.**

#### **A. Advantages of delegated legislation.**

A. Speed, delegated legislation is faster for urgent needs by government ministries and professional bodies.

B. Flexibility, delegated legislation one is free to consult any consideration which can be later accounted for.

C. Compensation of lost parliamentary time, in delegated legislation there is no law making time lost hence available for urgent needs.

D. Technicality of subject matter is due to availability of experts in all fields making it detailed and technical.

**B. Disadvantages of delegated legislation.**

A. Less democratic, this is because delegated legislation is not always made by representatives or the people.

B. Difficult to control, this is due to its enormous growth makes it hard to control as also in some parts it's unknown.

C. Abuse of power, this is due to lack control caused by its enormous growth and inadequate publicity.

D. Detailed and technical, to ordinary people delegated legislation is too detailed and technical which is a main problem because it creates misunderstandings and discrimination.

**3. Differentiate between the terms under influence and duress.**

Under influence is taking advantage of another person through a position of trust in the formation of a contract while duress on the other hand is wrongful pressure exerted upon a person in order to coerce that person into a contract that he or she ordinarily wouldn't enter.

**4. Identify ten fiduciary duties imposed on an agent when working on behalf of a principal.**

1. Account, the agent is bound to explain to the principal the application of money or goods that come into his hands during the relationship.

2. Keep the principal informed, the agent must ensure that the principal is well aware of the transactions entered into.

3. Bonifade, as a fiduciary an agent is bound to act in good faith for the benefit of the principal.

4. Secrecy, the agent must not disclose his dealings with the principal to third parties without the principal's consent.

5. Disclosure, the agent is bound to disclose any personal any personal interests in contracts made on behalf of the principal.

6. Separate accounts, the agent must maintain separate accounts of his money or his assets and those of his principal.

7. Obedience, the agent is bound to obey the principal's instructions

8. Respect for principal's title or estoppel, the agent must respect the principal's title to any property he holds on the principal's behalf.

9. Care and skill, the agent must exhibit a degree of care and skill appropriate to the circumstances.

10. Performance, the agent must perform his obligation if the agency is contractual or where the undertaking is illegal or void.

**5. State three differences between contract and tort law.**

A. In contract is a promise or set of promises which the law will enforce while tort on the other hand is collection of civil law remedies entitling a person to recover damages for loss and injury which have been caused by the actions, omissions or statements of other person in such circumstances that the latter was in breach of duty or obligation imposed at law.

B. In contract, the rights and obligations are created by the acts and agreement between the parties to the acts of agreement between the parties to the contractual arrangement while in tort, the rights and obligations are created by the courts applying common law which has, on the basis of previous authority.