



CS PART II SECTION 4

LAW AND PROCEDURE OF MEETINGS

FRIDAY: 24 May 2019.

Time Allowed: 3 hours.

Answer ALL questions. Marks allocated to each question are shown at the end of the question.

QUESTION ONE

- (a) With reference to general principles and case law, advise upon the correctness or otherwise of each of the following:
- (i) The chairman of a meeting directs that a poll should be taken on a contentious issue despite protests from several members present at the meeting. (2 marks)
 - (ii) The rules of the association require a poll to be taken on every special resolution. A special resolution is passed on a show of hands, no poll being demanded or taken. (2 marks)
 - (iii) The rules of the society state that three or more members may demand of a poll. One member only demands a poll and it is taken without objection being raised at the meeting. The validity of the poll is later disputed by a member who was not present at the meeting. (2 marks)
- (b) Giving examples in each case, distinguish between “substantive motion” and “dilatory motion” of adjournments of a County Assembly. (6 marks)
- (c) Discuss four types of motions in a parliamentary procedure. (8 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) In the context of meetings of National Assembly:
- (i) Assess three circumstances when the speaker might direct a division to be taken. (6 marks)
 - (ii) Discuss six rules of debate in the National Assembly. (6 marks)
- (b) Peter Karisa was appointed the liquidator of Century Limited in order to carry out a creditors voluntary liquidation. On 2 January 2019, the contributories of the company had formed the view that Century Limited was unable to pay its debts. He set a date for the creditors’ meeting on 28 February 2019. He sent out the notice of the meeting on 25 February 2019 and published the notice in the Gazette.

Further, he informed the creditors that any creditor interested in information regarding Century Limited’s affairs should pay Sh.1,000 for its dissemination.

On the day before the meeting, Peter sent his apologies as he could not attend the meeting but requested the creditors to continue and meet to discuss the affairs of the company. He further informed the creditors that the notice sent contained the information needed as to the financial position of the company.

Required:

Analyse four flaws in procedure for the scheduled meeting of the creditors.

(8 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Kurawa Ltd. has adopted the model articles of association for private companies limited by shares. The directors of Kurawa Ltd. are Chari, Mangi and Peru, they held a meeting to discuss potential contracts with third parties. The meeting resolved to purchase firewood for the company’s boilers from Samata Ltd. Mangi did not disclose that he is a shareholder of Samata Ltd. and is entitled to a shareholder’s commission in return for obtaining orders for Samata Ltd. Mangi voted in favour of the contract. Peru voted in favour of a contract with Vipo Ltd. though he did not disclose that he is a director of Vipo Ltd. and has been promised a commission of 5% if Kurawa Ltd. enters into a contract with Vipo Ltd. Chari has never been properly appointed as a director of Kurawa Ltd.

Required:

Discuss the validity of the meeting of the directors of Kurawa Ltd.

(10 marks)

- (b) The constitution of a society requires fourteen days' notice of a meeting. The secretary of the society issues seven days notice without the authority of the convening body. All the members present at the meeting agree to waive the inadequacy of the notice.

Required:

Assess the validity of the meeting.

(4 marks)

- (c) Ali and Bii are directors and shareholders of AB Ltd. They wish to remove the Executive Director from office as soon as possible even though his term of office and current contract of service still has over one year to run.

Advise Ali and Bii on the procedures of meetings and resolutions necessary to fulfil their objective of removing the Executive Director from office.

(6 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) A company is required to give notice of a resolution that is proposed to be moved at an Annual General Meeting once it receives requests from its members.

With reference to the above statement, outline four conditions for this request to be effective.

(4 marks)

- (b) Explain four ways in which an extraordinary general meeting might be convened.

(4 marks)

- (c) A statutory meeting is held for the specific agenda of enabling members of a company to consider the statutory report.

Analyse four contents of the statutory report.

(4 marks)

- (d) Explain the rules relating to quorum in the conduct of National Assembly meetings.

(4 marks)

- (e) With reference to the law of defamation, summarise four circumstances when the defence of qualified privilege might be applicable.

(4 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) With reference to the "audi alteram partem rule" that is, right to a fair hearing, examine three fundamental rights recognised by this rule.

(6 marks)

- (b) Alex Yanga, a trade union member was expelled for breach of union rules. The rules provide that where a member is accused of having committed an offence, he is entitled to an opportunity to answer the charges preferred before the disciplinary committee. In addition, the member is supposed to appear before the meeting of the union executives in which the decision of the disciplinary committee is ratified.

Alex was summoned by the disciplinary committee where automatic expulsion was recommended and the case was closed.

Required:

Advise Alex Yanga on his legal rights.

(4 marks)

- (c) Discuss two instances where miscellaneous resolutions are applicable.

(4 marks)

- (d) Examine three circumstances under which extra-ordinary resolution would be passed as per the Companies Act.

(6 marks)

(Total: 20 marks)

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