

THE OPEN UNIVERSITY OF TANZANIA

FACULTY OF BUSINESS MANAGEMENT

MASTERS IN BUSINESS ADMINISTRATION

COURSE OUTLINE

1. **Course title:**

OBS 622: Business Law and Ethics

2. **Unit weighting:**

3. **Course objectives:**

- To enable students acquire awareness of how business enterprises are formed, operated and terminated by elucidating basic principles of law and ethics in their fields of practice.
- To illustrate the workings of business law and ethics with special reference to this transition economy to a market-led economy and enable students acquire necessary skills to comprehend and appreciate the many legal and ethical problems involved, the fora to go to and their solutions.
- To make students appreciate the relationship between law, ethics and other related concepts and their role in the success or failure of businesses.

4. **Detailed Course Syllabus**

Topic No. 1:

Preliminary Considerations

Lecture 1: Meaning of law, ethics and relevance to business (1 hour)

Lecture 2: The Tanzania Legal System (2 hours)

2.1 The Court System and Tribunals

2.2 The Constitution

- pillars of the state
- separation of powers
- rule of law

2.3 Other laws

- Acts
- Ordinances
- Customary laws
- Received laws
- Case law

Readings:

- (i) Peter Singer, *Practical Ethics*, Cambridge University Press 1993, 2nd ed., 1 – 15 (appended)
- (ii) The Constitution of the United Republic of Tanzania, 1977
- (iii) Dictionaries

Topic No. 2: Business Law and Ethical Dimensions – Civil Aspects

Lecture No. 3: Law of Contract (6 hours)

- Form a contract may take

- Terms of contract
- Discharge of a contract
- Remedies for breach of contract

Readings:

- (i) OUT Contract Law Materials
- (ii) Schmitthoff & Sarre, *Charlesworth's Mercantile Law*, 13th ed. London, Stevens & Sons, 1977 pp. 1-151.
- (iii) The Law of Contract Ordinance Cap. 433, Laws of Tanganyika

Lecture No. 4: Agency law (2 hours)

- Creation of agency
- Ratification
- Agent's authority
- Rights of agent
- Ethical principles and Duties of agent
- Rights of third parties
- Irrevocable agency

Readings:

- (i) The Law of Contract Ordinance, Cap. 433 Part IX, ss. 134 - 189
- (ii) Schmitthoff & Sarre, op. cit., pp. 182 – 207.

Lecture No. 5:

Partnership

(2 hours)

- Establishment of a partnership – basic considerations to bear in mind
- Mutual rights and liabilities and ethical underpinnings in a partnership
- Partners and third parties
- Duration of a partnership

Readings:

- (i) The Law of Contract Ordinance, Cap. 433, Part X, ss. 190 – 226.
- (ii) Schmitthoff & Sarre, op. cit., pp. 208 - 228

Lecture No. 6:

Sale of goods

(2 hours)

- The contract of sale of goods
- Conditions and warranties
- Transfer of property
- Ownership and possession
- Rights of seller
- Rights of buyer

Readings:

- (i) The Sale of Goods Ordinance, Cap. 214
- (ii) Atiyah, P.S., *The Sale of Goods*, Pitman, 1985 or latest edition.

- Fraudulent trading
- Insider trading/dealing
- Production and sale of sub-standard and/or unsafe goods.

Readings:

- (i) The Companies Ordinance, Cap. 212
- (ii) The Companies Act, 2002 (not yet operational)
- (iii) Mayson, French & Ryan, *Company Law*, Blackstone Press Ltd., 4th ed. 1987

Topic 3: Business Law and Ethical Dimensions – Criminal Aspects

Lecture No. 9: Elements of a crime (2 hours)

- The act, omission or state of affairs – *actus reus*
- The guilty mind – *mens rea*
- Exception to requirement of *mens rea* – strict liability crimes/offences – e.g. offences relating to dangerous drugs, road traffic and pollution.

Readings:

- (i) The Penal Code, Cap. 16
- (ii) Smith & Hogan, *Criminal Law*, 5th ed. (or latest) Butterworths

Lecture No. 10: General principles of criminal responsibility *(1 hour)*

- ignorance of law
- intoxication
- insanity
- infancy
- self defence and defence of property
- mistake of fact

Readings:

- (i) The Penal Code, Cap. 16 ss.

Lecture No. 11: **Crimes committed in businesses** *(3 hours)*

- Drug trafficking
- Trafficking in human beings
- Corruption
- Forgery
- Fraud
- Counterfeiting currency
- Money laundering
- Collusive tendering
- Collusive bidding
- Etc.

Readings:

- (i) The Penal Code, Cap. 16, ss. 315, 316, 317, 318, 333, 137, 138, 142, 353, 354.
- (ii) The Proceeds of Crime Act, 1991 No. 25 of 1991, s. 71(3)
- (iii) Drugs and Prevention of Illicit Traffic in Drugs Act, 1995 No. 9 of 1995, ss. 2, 16, 17, 19, 25, 27.
- (iv) Prevention of Corruption Act, 1971.

Topic No. 4: Banking and Securities

Lecture No. 12: Banker – customer relationship (3 hours)

- Obligations under a banking contract
 - of a banker
 - of a customer
- Securities against advances
 - Meaning and importance of security
 - Land as security
 - Debenture as security
 - Guarantee as security

Readings:

- (i) Megrah, M. & Ryder, F.R., *Paget's Law of Banking* Butterworth's (latest edition)
- (ii) The Land Act 1999, No. 4 of 1999
- (iii) The Village Land Act, 1999, No. 5 of 1999

Topic No. 5: International Trade

Lecture No. 13: International Commercial Terms

(Incoterms)

(2 hours)

- Ex Works, Ex Factory, Ex Warehouse or Ex store (where the goods are situated)
- F.A.S “Free alongside ship” (named port of shipment)
- F.O.B. “Free on Board” (named port of shipment)
- C.I.F. “Cost, Insurance and Freight” (named port of destination).

Readings

- (i) Schmitthoff, C.M., *Schmitthoff's Export Trade: The Law and Practice of International Trade*, 9th ed. (or latest) Stevens, pp. 9 – 62 (appended).

Lecture No. 14: Electronic commerce (e- commerce)

(1 hour)

- What transaction entails
- Legal problems involved
 - An oral or written agreement
 - If written is the document authenticated by signature?

Readings:

- (i) The Law of Evidence Act 1967 – admissibility of documents as evidence

Topic No. 6: Payment mechanisms

Lecture No. 15: Ages of payment (1 hour)

- Cash
- Paper based payment
- Electronic funds transfer

Readings:

- (i) Megrah M. & Ryder, F.R., *Paget’s Law of Banking*, Butterworths (latest ed.)
Chapter on “Electronic Funds Transfer”.
- (ii) Davis, I., *Textbook on Commercial Law*, Blackstone Press
Ltd; 1992 pp. 226 – 227 (appended).

Lecture No. 16: Negotiable Instruments (2 hours)

- What they are
- Main types
- Importance
- Ethical rules relating to payment by negotiable instruments
- Parties

Readings:

- (i) The Bills of Exchange Ordinance, Cap. 215
- (ii) Schmitthoff & Sarre, *Charlesworths Mercantile Law*, op. cit., pp. 330 - 356
- (iii) Davis, I., *Textbook on Commercial Law*, Blackstone Press Ltd, 1992 pp. 187 –

228.

5. **Mode of assessment**

This course will be evaluated by

- (a) Continuous assessment of coursework that will carry 50% of the final marks.

Continuous assessment shall be divided into

- (i) a Term Paper whose maximum marks shall be 30%; and
 - (ii) a Timed Test whose maximum marks shall be 20%.
- (b) Examination at the end of the year, i.e. an annual examination, which will carry 50% of the final marks
 - (c) The passmark of this course shall be a B grade (50%) or above.

6. Very essential readings:

- (a) OUT Contract Reading Materials, Parts I - III
- (b) Schmitthoff & Sarre, Charlesworths Mercantile Law (latest edition),
London, Stevens & Sons.

