

**THE INDEPENDENT EXAMINATION BOARD
GHANA SCHOOL OF LAW
NEW PROFESSIONAL LAW COURSE
SUPPLEMENTARY EXAMINATION 2017
ALTERNATIVE DISPUTE RESOLUTION (ADR)
THURSDAY 30 MARCH 2017**

TIME ALLOWED: THREE (3) HOURS

10:00am – 1:00pm

INSTRUCTIONS TO CANDIDATES:

1. Read the instructions very carefully before beginning your answers.
2. Answer any **FOUR (4) QUESTIONS**.
3. Credit will be given for legible handwriting, clarity of expression and orderly presentation of answers.
4. Do not write or sign your name on the answer booklet. Only write your index number.
5. Adhere strictly to the instructions on the front cover of your Answer Booklet.

Question One

An abuse of ethical rules in ADR could be harmful rather than beneficial, and could bring the neutral's reputation and that of the process into disrepute. How does Act 798 ensure that the processes under the Act are conducted in a fair, effective and even-handed way?

Question Two

What are the similarities and differences between arbitration and customary arbitration?

Question Three

According to Hon Justice Edward Torgbor in his article, "Ghana's Recently Enacted Alternative Dispute Resolution Act 2010 (Act 798): A Brief Appraisal"

The Act provides for party autonomy in many respects, but that autonomy is not an absolute licence to hinder the course of arbitration.

Discuss this statement in the light of Act 798

Question Four

In her article, "Fairness and Integrity of the Arbitrator under the Alternative Dispute Resolution Act of Ghana 2010, Act 798, Diana Asonaba Dapaah writes, "...arbitrators have a high duty to conduct themselves fairly and appropriately if the public confidence in arbitration under Act 798 is to be established and maintained".

Do you agree? How does Act 798 achieve this recommendation by the writer?

Question Five

Briefly explain the following:

- a. Kompetenz-Kompetenz doctrine
- b. Caucusing
- c. Fees as an ethical issue
- d. BATNA

Question Six

- a. How does Act 798 address enforceability of mediated agreements?
- b. Under what circumstances can an arbitral award be set aside under Act 798.