

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

FAMILY LAW AND THE LAW OF SUCCESSION – PRB 005

10TH JANUARY, 2019

DURATION: 3 HOURS

9.00 AM – 12.00 NOON

Instructions to Candidates

- (a) Answer any TWO questions from each section.
- (b) Each Question carries **15 Marks**
- (c) Marks shall be lost for illegible handwriting

PLEASE TURN OVER

SECTION A

Question One

- a) For a marriage to be valid under the Marriage Act 2014, it must meet certain requirements. List any 6 requirements. (6 Marks)
- b) State how the existence of a marriage may be proven in Kenya. (5 Marks)
- c) Describe 'Marriage' as stipulated in the Marriage Act and the Constitution of Kenya, 2010. (4 Marks)

Question Two:

Discuss the meaning and implication of a void marriage under Family Law (15 Marks)

Question Three:

- a) Discuss FOUR (4) grounds for petitioning a Court for divorce under the Marriage Act, 2014. (12 Marks)
- b) What is the status of a marriage celebrated outside Kenya? (3 Marks)

SECTION B

Question Four:

- a) Define the following terms:
 - i. A will (4 Marks)
 - ii. A Codicil (3 Marks)
- b) Using Case Law where applicable, discuss the ingredients of a valid will. (8 Marks)

Question Five:

- i. List EIGHT (8) circumstances when gifts in a WILL, will fail. (8 Marks)
- ii. Explain who are entitled to take out grant of letters of administration intestate under the Law of Succession Act, Chapter 160 of the Laws of Kenya. (7Marks)

Question Six:

Discuss how the property of a deceased person who died intestate should be divided in the following circumstances under the Law of Succession Act, Chapter 160 of the Laws of Kenya.

- i. Where the person leaves a spouse and a child or children (8 Marks)
- ii. Where the deceased was polygamous (7 Marks)

END

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

LEGAL METHODS, SYSTEMS AND CONSTITUTIONAL LAW – PRB 001

8TH JANUARY, 2019

DURATION: 3 HOURS

9.00 AM – 12.00 NOON

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) All questions carry equal marks (25 Marks)
- (c) Marks shall be lost for illegible handwriting

PLEASE TURN OVER

Question One:

You have been invited to present a lecture to first year law students on the subject of Legal Systems and Methods. Prepare your lecture notes capturing the following items:

- a) Common Law;
- b) Equity;
- c) Statutes of General Application
- d) African Customary Law;
- e) International Customary Law.

(25 Marks)

Question Two:

Discuss any FIVE (5) types of legislation that form part of the source of Law in Kenya.

(25 marks)

Question Three:

Citing relevant case law, explain any FIVE (5) judge-made notes of interpreting legislation.

(25 Marks)

Question Four:

- a) Distinguish between Common Law legal system and Civil Law legal system.
- b) Discuss THREE (3) Schools of thought in Jurisprudence.

(10 Marks)

(15 Marks)

Question Five:

Identify the FIVE (5) superior courts established by the Constitution of Kenya, 2010 and indicate the composition and jurisdiction of each.

(25 Marks)

Question Six:

Explain the meaning of the following concepts as used in Constitutional Theory:

- a) Supremacy of the Constitution;
- b) Separation of Powers;
- c) Rule of Law;
- d) Democracy;
- e) Constitutionalism.

(25 Marks)

END

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

FAMILY LAW AND THE LAW OF SUCCESSION – PRB 005

10TH JANUARY, 2019

DURATION: 3 HOURS

9.00 AM – 12.00 NOON

Instructions to Candidates

- (a) Answer any TWO questions from each section.
- (b) Each Question carries **15 Marks**
- (c) Marks shall be lost for illegible handwriting

PLEASE TURN OVER

SECTION A

Question One

- a) For a marriage to be valid under the Marriage Act 2014, it must meet certain requirements. List any 6 requirements. (6 Marks)
- b) State how the existence of a marriage may be proven in Kenya. (5 Marks)
- c) Describe 'Marriage' as stipulated in the Marriage Act and the Constitution of Kenya, 2010. (4 Marks)

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Question Three:

- a) Discuss FOUR (4) grounds for petitioning a Court for divorce under the Marriage Act, 2014. (12 Marks)
- b) What is the status of a marriage celebrated outside Kenya? (3 Marks)

SECTION B

Question Four:

- a) Define the following terms:
 - i. A will (4 Marks)
 - ii. A Codicil (3 Marks)
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- ii. Explain who are entitled to take out grant of letters of administration intestate under the Law of Succession Act, Chapter 160 of the Laws of Kenya. (7Marks)

Question Six:

Discuss how the property of a deceased person who died intestate should be divided in the following circumstances under the Law of Succession Act, Chapter 160 of the Laws of Kenya.

- i. Where the person leaves a spouse and a child or children (8 Marks)
- ii. Where the deceased was polygamous (7 Marks)

END

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

THE LAW OF TORTS – PRB 003

9TH JANUARY, 2019

DURATION: 3 HOURS

9.00 AM – 12.00 NOON

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks. All other questions carry 20 marks each.
- (c) Marks shall be lost for illegible handwriting

PLEASE TURN OVER

Question One:

Agik is 49 years old. He has dreamt of being a Horticultural farmer from his School days when he was studying agriculture at Shule Mbaya Secondary School. He had inherited 50 acres of land in semi-arid area of Mwakilunge Scheme. He decided to harness water and obtained permission from the Ministry of Water Resources to construct a dam which he did. In this region, rain is scarce and hardly floods. It mainly rains once a year. Last June 2018, it rained for two consecutive weeks, the dam was filled to capacity and water overflowed and poured downstream destroying houses and eventually killed two villagers who live down the slope.

Discuss:

- a) The tortious claims that are likely to arise from the occurrence. (7 Marks)
- b) Who is likely to be held accountable (5 Marks)
- c) The defences to be raised. (8 Marks)
- d) What remedies are available to the claimant. (5 Marks)

Question Two:

- a) Explain FOUR (4) functions of the Law of Torts. (4 Marks)
- b) With the aid of decided cases, discuss any FOUR (4) defences available to a defendant in an action in tort. (16 Marks)

Question Three:

- a) Distinguish between a contract of service and that of an Independent Contractor. (8 Marks)
- b) Outline THREE (3) types of trespass. (6 Marks)
- c) Jagongo trespassed to Wakubwa's farm and grazed his animals on the farm for 3 years. Wakubwa was away in the United States with all his family members. However, he had installed CCTV cameras all over his farm. Wakubwa now wants to sue Jagongo:
 - a) What remedies are available to Wakubwa against Jagongo's actions. (3 Marks)
 - b) Explain two (2) defences available to Jagongo (3 Marks)

Question Four:

- a) Explain THREE (3) defences available to an occupier in relation to liability of the visitor in his premises. (6 Marks)
- b) Majukumu is a member of parliament of Sikuma Constituency in Mars Country. Mars has same laws as those of Kenya. Majukumu alleged in Parliament that Mwanahewa was a thief, a prostitute and corrupt. The message was broadcast by all TV stations and published in three main dailies, Mars Express, Mars Weekly and Mars Daily. Mwanahewa is now aggrieved and wants to sue.
 - i. Explain the type of defamation in the above context; (4 Marks)
 - ii. Outline the defences available to Majukumu, if any; (4 Marks)

- iii. Would it be different if Majukumu uttered the words above while on a tour of his constituency? Explain. (6 Marks)

Question Five:

Explain the following terms:

- i. *Res Ipsa loquitor* (4 Marks)
- ii. Act of God (4 Marks)
- iii. Remoteness of damage. (4 Marks)
- iv. Libel. (4 Marks)
- v. *Volenti non fit injuria* (4 Marks)

Question Six:

- a) Explain THREE (3) fault principles which aid in establishing liability. (6 Marks)
- b) Explain capacity of government to sue and be sued in tort. (14 Marks)

END

