

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

FAMILY LAW AND THE LAW OF SUCCESSION – PRB 005

8<sup>TH</sup> JANUARY, 2020

DURATION: 3 HOURS

9.00 AM – 12.00 NOON

**Instructions to Candidates**

- (a) Answer any TWO questions from each section.
- (b) Each Question carries 25 Marks
- (c) Marks shall be lost for illegible handwriting

PLEASE TURN OVER

## SECTION A

### Question One

Your friend Joe comes to you for legal advice. He tells you that when he was 25 years old he entered into a customary law marriage with his cousin Mary. At that time Mary was only 16 years old and she was forced into it by their parents. Due to this the dowry was paid while she was in Boarding School. When she came back home she was forced to move in with Joe. Their marriage was however not consummated due to a mutual agreement. She has since moved away from their matrimonial home and gone back to School. It is almost 2 years now and Joe wants to marry a girl that he met. He wants a church wedding.

- a) Using case law, Kenyan Constitution and the Marriage Act 2014, define a Marriage. (5 Marks)
- b) Advise Joe making sure to provide the general requirements of a marriage in Kenya. (20 Marks)

### Question Two:

- a) Briefly discuss the role of the Registrar of marriages as per the Marriage Act 2014. (7 Marks)
- b) Explain the requirement for competent witnessing of a marriage under the Marriage Act 2014. (9 Marks)
- c) Discuss the circumstances under which a marriage may be declared voidable under the Marriage Act 2014. (9 Marks)

### Question Three:

- a) Discuss the contents of a notice of intention to marry that must be given to the Registrar in case of Civil and Christian marriages. (10Marks)
- b) Using case law where applicable, discuss the process of objection to a marriage as provided for under the Marriage Act, 2014. (15 Marks)

### Question Four:

Discuss termination of marriages under the following headings:

- a) Presumption of death. (6Marks)
- b) Annulment (12 Marks)
- c) Any 7 grounds of divorce. (7 Marks)

## SECTION B

### Question Five:

Using case law where applicable, discuss capacity to write a valid will under the following headings:

- a) Insane delusion (7 Marks)
- b) Coercion (8 Marks)
- c) Mental Capacity (10 Marks)

**Question Six:**

Using case law where applicable, explain the following in relation to law of succession in Kenya.

- a) Nomination ( 7 Marks)
- b) Donatio Mortis Causa (Gifts in contemplation of death) (10 Marks)
- c) Inheritance of co-owned property. (8 Marks)

**Question Seven:**

- a) List the persons who are entitled to grant of letters intestate in order of priority. (7 Marks)
- b) Discuss the effect of grant of letters of administration intestate. (5 Marks)
- c) List down the information required for purposes of filling out the grant of letters of administration forms. (13 Marks)

**Question Eight:**

- a) Explain the division of the deceased person's property intestate under the following headings:
  - i. Where the deceased leaves a surviving spouse and children. (10 Marks)
  - ii. Where the deceased person was polygamous. (10 Marks)
- b) State any FIVE (5) duties of an administrator of the estate. ( 5 Marks)

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END

