

# COUNCIL OF LEGAL EDUCATION



EXAMINATION FOR ADMISSION

TO THE ROLL OF ADVOCATES

## **ATP 103: LEGAL WRITING AND DRAFTING**

**THURSDAY 1<sup>ST</sup> AUGUST, 2013**

**DURATION: 3 HOURS**

### **Instructions to Candidates**

- (a) Candidates should attempt **FOUR** questions.
- (b) Answer **one question from each section** and a fourth one from any of the three sections.
- (c) All questions carry 15 marks each.
- (d) Marks may be lost for illegibility.

**PLEASE TURN OVER**

## **SECTION A**

1.

- a) Describe the language of the law. (5 marks)
- b) Is there a contemporary problem with the language of the law? Justify your answer with reasons and practical examples. (10 marks)

2.

- a) Distinguish a thesis statement from a thesis paragraph. (5 marks)
- b) Define a transition and explain the purpose for which transition words are used. (5 marks)
- c) Identify and list the transition words in the following paragraph:

"For a petitioner to succeed in challenging the validity of a will on the ground of lack of attestation he must show that the testator's signature was not made in the presence of two witnesses who were fully aware of the signing process. The law provides that a testator's signature must be made in the presence of two witnesses."

(5 marks)

## **SECTION B**

3. Kamau Patel was registered as a student of the Kenya School of Law in January, 2012. In the course of the year it was discovered that he had not been attending classes as required and that his friend Okoth Omar had been signing the attendance roll for him. Omar admitted these facts to the School authorities. No action was taken against Omar.

At the hearing of his disciplinary case, the Disciplinary Committee refused to hear Patel arguing that Omar's written confession was all it required to deal with him. The committee recommended that he be expelled from the School. The decision was communicated to him in writing in April 2013.

You are an Advocate of the High court and Patel has approached you to advise him on the legal issues arising and how best to deal with them to protect his interests.

Draft your legal opinion.

(15 marks)

4.

- a) Explain FIVE key parts of a demand letter. (5 marks)
- b) Mr. and Mrs. Oblong, an elderly couple suggested to their close friends Mr. and Mrs. Pembe, also an elderly couple that they should come and live with them in their four-bedroomed mansion sitting on 1 acre of land in Karen. The Pembes accepted the proposal but pointed out that if they were to live with the Oblongs and share living expenses, they would have to sell off their equally upmarket home in Runda. The Oblongs responded that this was not a problem because they would leave to the Pembes a share of their property in their wills. The Pembes accepted this arrangement and sold their home. They gave part of the sale proceeds to their only daughter to enable her buy an apartment in Kileleshwa and moved in with the Oblongs.

After about two years of peaceful coexistence the couples began to disagree over certain housekeeping matters. The Oblongs asked the Pembes to leave. The Pembes only left after the threat of forceful eviction and now live with their daughter and are contemplating legal action against the Oblongs whose address is P. O. Box 2424 Karen.

They have approached you as an Advocate to act for them and you have determined that they have a reasonable cause of action.

Draft the appropriate demand letter.

(10 marks)

### **SECTION C**

5.

The Cabinet Secretary responsible for finance exercising his powers under Section 17 of the Financial Institutions Management Act, 2010 has appointed Karanja Simiyu to be Chairman of the Finance Management Board. He has further appointed Kibet Oluoch and Shamira Juma to be members of the Board for a period of 3 years.

Draft the order appointing them.

(15 marks)

6.

Study the following statutory provision and break it up into separate legislative sentences, in your own words, but without changing the meaning. Where possible each sentence should begin with the relevant legal subject, then the legal action, and then the context. Make sure that you use proper numbering, punctuation and in and out denting.

Section 86A (5) Income Tax Act:

(5) if an intending appellant wishes to appeal against a decision of the Tax Court to the Court of Appeal, the Registrar of the Tax Court shall submit the notice or notices of intention to appeal lodged under Subsection (3) to the President of the Tax Court who shall, having regard to the contemplated grounds of the intended appeal or appeals as indicated in the said notice or notices, make an order granting or refusing, as he sees fit, leave to appeal against such decision to the said court and the order so made shall be final.

(15 marks)