

COUNCIL OF LEGAL EDUCATION



EXAMINATION FOR ADMISSION
TO THE ROLL OF ADVOCATES

ATP 103: LEGAL WRITING AND DRAFTING

THURSDAY 19TH JULY, 2012

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) Discuss the origin and use of plain English as a technique in legal writing. (6 marks)

- b) Edit the following sentences to cure the separation of related words. Keep the subject, verb and object together at the beginning of the sentence.
 - i) Mrs. Kikulacho, in the course of her struggle to provide for her children as a widow, accrued huge debts to her family and friends. (3 marks)

 - ii) The trustee, at any time, by an instruction in writing executed by the trustee, with the concurrence of the City Council evidenced by a resolution, may accept the resignation of, or remove any co-trustee under this section. (3 marks)

 - iii) The allegation in the original plaint that the first defendant was driving the vehicle as a servant of the motor vehicle owner was omitted. (3 marks)

2.

- a) Distinguish a thesis statement from a thesis paragraph.
- b) Define a transition and explain the purposes for which transition words are used.
- c) Identify and write 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 the testator’s signature must be made in the presence of two witnesses.”

(5 marks)

SECTION B

3.

- i) What is a demand letter? (2 marks)

- ii) Discuss **FIVE** key parts of a demand letter. (5 marks)

- iii) Mr. and Mrs. Kamau, an elderly couple suggested to their close friends Mr. and Mrs Sippori, also an elderly couple, to come and live with them in their home in Muthaiga. The Zipporis agreed with the proposal but pointed out to the Kamaus that if they were to live with them, they would have to sell their house in Karen. The Kamaus replied stating that the problem could be resolved by the Kamaus leaving to the Zipporis a half share of the home in their will. The Zipporis accepted this offer and sold their house. They left part of the sale proceeds to their daughter to enable her to purchase a flat and moved in with the Kamaus.

After two years the two couples began to disagree over certain matters and the result was that the Kamaus asked the Zipporis to leave. The Zipporis left to avoid being violently evicted and are now contemplating taking legal action. They have approached you to act for them in the matter as their advocate.

Draft the demand letter that you would send to the Kamaus.

(8 marks)

4.

- i) Discuss the fundamental principles of legal drafting.

(5 marks)

- ii) John Kamau and Gladys Njoki of Post Office Box 1 Kikuyu have lived as man and wife for quite some time. They claim they got married under Kikuyu customary law in March 2001. They now want to join a self-contributory pension scheme as self-employed persons. They however need to prove that they are married and have sought your assistance.

Draft the appropriate instrument.

(10 marks)

SECTION C

5.

- a) With clear legislative examples, discuss the functions of definition. Give **THREE** examples for each type of definition.

(7 marks)

- b) With clear legislative examples, discuss the **TEN** practical rules for drafting definitions. Give **TWO** examples for each rule.

(8 marks)

6.

The Cabinet Secretary responsible for matters relating to Justice and Constitutional Affairs has been tasked to prepare a cabinet memorandum on the causes of corruption and how to combat the same in Kenya. The ultimate aim is to propose and direct the Kenya Law Reform Commission together with the Attorney General to prepare a new Anti-Corruption Legislation.

Prepare a cabinet memorandum that clearly identifies the causes of corruption and how to combat them.

(15 marks)
