

COUNCIL OF LEGAL EDUCATION



KENYA SCHOOL OF LAW
TOWN CAMPUS LIBRARY

DIPLOMA IN LAW (PARA-LEGAL STUDIES)



LAW OF PROPERTY IN LAND

MONDAY 31ST JANUARY, 2011

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 marks
- (c) All other questions carry 15 marks each

PLEASE TURN OVER

QUESTION ONE

- (a) Define real property distinguishing between realty and personal property. (5 marks)
- (b) "Land includes all the things and fixtures permanently attached to the land." Expound (10 marks)
- (c) (i.) What is land tenure? (5 marks)
- (ii.) What categories of land tenure currently define the forms of ownership of land in Kenya? (5 marks)

QUESTION TWO

- (a) What are the fundamental pre-requisites of a valid lease? (5 marks)
- (b) Compare and contrast the contractual obligation of a tenant, as opposed to those of a landlord. (10 marks)

QUESTION THREE

- (a) Outline the statute laws under to which land may currently be registered in Kenya. (5 marks)
- (b) What statute laws currently govern the ownership of flats apartments and highrise buildings in Kenya? (5 marks)
- (c) Explain briefly the meaning of the term "reversionary interest" in relation to leasehold estates. (5 marks)

QUESTION FOUR

- (a) What rights and remedies does a mortgagee (or chargee) have in the event of default by a mortgagor (or chargor)? (10 marks)
- (b) What are the fundamental rights of a mortgagor (or chargor) in a borrowing transaction? (5 marks)

QUESTION FIVE

- (a) What is co-ownership of land? (4marks)
- (b) What is the right of survivorship ("*jus accrescendi*") in relation to a joint tenancy? (3 marks)
- (c) Define the four fundamental elements of a joint tenancy? (8 marks)

QUESTION SIX

- (a) What is compulsory acquisition and what fundamental pre-requisites govern compulsory acquisition? (10 marks)
- (b) What laws govern compulsory acquisition of land in Kenya? (5 marks)

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COUNCIL OF LEGAL EDUCATION



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

LAW OF PROPERTY IN LAND

THURSDAY 15TH NOVEMBER, 2012

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 marks**
- (c) All other questions carry **15 marks** each

PLEASE TURN OVER

QUESTION ONE

"Compulsory acquisition of land by Government is a necessary evil. It is actually a return of property to the owner, which is the Government of the Republic of Kenya." *Anonymous*

- a) Discuss the various conditions that are necessary for the exercise of this power. (15 marks)
- b) What laws govern compulsory acquisition of land in Kenya? (10 marks)

QUESTION TWO

With the help of case law, discuss the concept of "land" and the relevant applicable exceptions. (15 marks)

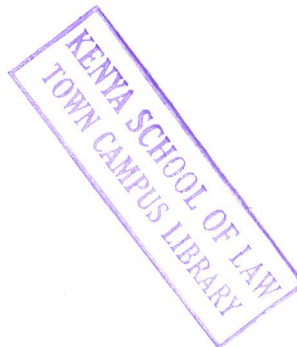
QUESTION THREE

- a) What is co-ownership of land? (3 marks)
- b) Discuss the doctrine of *Jus accrescendi* (right of survivorship). (8 marks)
- c) Discuss the **FOUR** unities of joint tenancy. (4 marks)

QUESTION FOUR

Discuss the scope and content of the following:

- a) Easements; (5 marks)
- b) Profit a' prendre; (5 marks)
- c) Restrictive Covenants. (5 marks)



QUESTION FIVE

"There is no liability to account for profits where a co-owner employs his capital and industry in cultivating the whole piece of land in a mode in which money and labour expended greatly exceed the value of rent or compensation for the mere use of land."

Herderson Vs Eason (1851) QB 701

With the help of case law, discuss the foregoing proposition. (15 marks)

QUESTION SIX

Discuss the scope of the Fee Simple Estate. (15 marks)

KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

LAW OF PROPERTY IN LAND

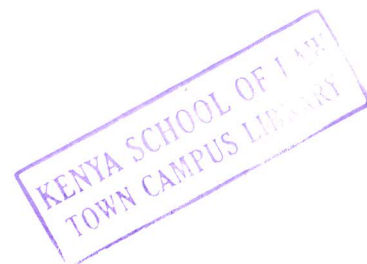
FRIDAY 29TH NOVEMBER, 2013

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 marks**
- (c) All other questions carry **15 marks** each

PLEASE TURN OVER



QUESTION ONE

Explain briefly the meaning of the following terms:

- a) Easement (5 marks)
- b) Profit a prendre (5 marks)
- c) Restrictive covenant (5 marks)
- d) Explain the four principal ways of termination of a leasehold arrangement. (10 marks)

QUESTION TWO

- a) What are the different ways through which devolution of interest and rights in land occur? (10 marks)
- b) Outline the statute law under which such devolutions are regulated. (5 marks)

QUESTION THREE

- a) What are the principles drawn from the torren system named after Sir Richard Torren? (10 marks)
- b) What are the statutes under which land is currently registered in Kenya? (5 marks)

QUESTION FOUR

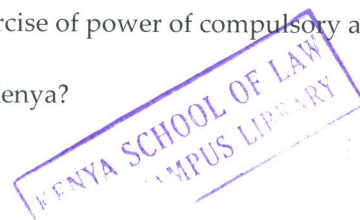
- a) What is co-ownership of land? (5 marks)
- b) What is the right of survivorship ("*jus accrescendi*") in joint tenancy? (5 marks)
- c) What are the basic elements of a joint tenancy? (5 marks)

QUESTION FIVE

- a) What various conditions are necessary for the exercise of power of compulsory acquisition? (5 marks)
- b) What statutes govern compulsory acquisition in Kenya? (5 marks)
- c) What are the five classes of legal mortgages? (5 marks)

QUESTION SIX

- a) What constitutes a valid lease? (10 marks)
- b) What are the obligations of a Landlord in a leasehold agreement? (5 marks)





THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARALEGAL STUDIES)

LAW OF PROPERTY IN LAND

27TH NOVEMBER, 2014

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions.
- (b) Question ONE carries 25 Marks.
- (c) All other questions carry 15 Marks each.

PLEASE TURN OVER

1. a) Describe the various ways in which co-ownership of property may be terminated. **(8 Marks)**
- b) Explain the main characteristics of Easement. **(7 Marks)**
- c) Wafula has been a tenant in Maina's house for the last four (4) months. The parties had executed a Lease agreement for a period of one (1) year. However, Maina is aggrieved as Wafula has broken all the doors in the house following several fights with his wife. Maina now seeks your advice on various ways in which he may terminate the lease agreement and lawfully evict Wafula.
- Advise Maina. **(10 Marks)**
2. a) In relation to the law of property, explain the difference between each of the following:
- (i) Feesimple and leasehold **(4 Marks)**
- (ii) Real property and personal property. **(4 Marks)**
- b) A leasehold agreement usually contains intended terms on the part of the lessor and lessee state the terms intended on the part of lessee. **(7 Marks)**
3. a) Discuss the ways in which a person can lose ownership of land. **(7 Marks)**
- b) Amunda and Murage intend to enter into a lease agreement regarding a business premises. Explain to them the standard contents of a lease agreement. **(8 Marks)**
4. Briefly explain the meaning of the following terms
- a) Compulsory acquisition **(4 Marks)**
- b) Adverse possession. **(3 Marks)**
- c) Profit a rendere **(4 Marks)**
- d) "*Jus - accresendi*" in joint tenancy. **(4 Marks)**
5. a) Joint tenancy cannot exist unless four unities exist. Outline the four unities. **(5 Marks)**
- b) Sir Richard Terms formulated four (4) principles called the "Torrens System" that were used as the basis of creation of the land registration system. Briefly discuss the four principles. **(10 Marks)**
6. a) Define a pledge and mortgage/charge and distinguish between the two. **(6 marks)**
- b) Briefly describe the remedies available to a mortgagee/charge in a legal mortgage/charge. **(9 Marks)**

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARALEGAL STUDIES)

LAW OF PROPERTY IN LAND

9TH DECEMBER, 2015

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions.
- (b) Question **ONE** carries **25 Marks**.
- (c) All other questions carry **15 Marks** each.

PLEASE TURN OVER

QUESTION ONE

- (a) In 1958 Sir Richard Torrens developed principles that were used to formulate a system of land Registration in South Australia. This system of registration was adopted in Kenya. State and explain those principles. (8 Marks)
- (b) Land Law of Kenya is divided into substantive law, systems of Conveyancing and Registration systems. State and explain the main statute(s) governing the substantive law, systems of conveyancing and registration of land in Kenya. (12 marks)
- (c) Explain the two types of Title Registration Systems in Kenya. (5 marks)

QUESTION TWO

- a) Explain co-ownership, and the rights of co-owners enjoyed over the property in the event of the death of one of them. (7 marks)
- b) (i) What are the four units that must exist in joint tenancy?
(ii) State the meaning of each of the said four units. (8 marks)

QUESTION THREE

Briefly explain the following

- a) Adverse possession
- b) Compulsory Acquisition
- c) Profit a *prendre* (15 marks)

QUESTION FOUR

- a) Differentiate between freehold and leasehold titles. (5 marks)
- b) Explain the different ways in which one can terminate leasehold in land. (10 marks)



QUESTION FIVE

- a) Briefly describe the different remedies available to a mortgagee / chargee in a legal mortgage / charge upon default by a mortgagor / chargor. **(10 marks)**
- b) When is a court inclined to grant an injunction as a remedy for a mortgagor / chargor, against a mortgagee / chargee seeking to exercise its statutory power of sale of property held by it as a security under a mortgage / charge. **(5 marks)**

QUESTION SIX

- a) Describe the creation of a mortgage / charge in Kenya. **(7 marks)**
- b) Identify and explain the four clauses of a legal mortgage in Kenya. **(8 marks)**



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THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION

LAW OF PROPERTY IN LAND – DPS 204

28TH NOVEMBER, 2016

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

Question One:

- (a) What is considered as co-ownership of property in land. (5 Marks)
- (b) Explain the meaning of the "right of survivorship" in co-ownership. (6 Marks)
- (c) Explain the four unities found in join-tenancy. (8 Marks)
- (d) How can co-ownership of land be terminated? (6 Marks)

Question Two:

"Registration of rights and interest in land in Kenya is not compulsory"

- (a) What registration systems exist in Kenya. (6 Marks)
- (b) What principles greatly influenced the registration system in Kenya? (9 Marks)

Question Three:

Briefly explain the meaning of the following terms:

- (a) Easement (5 Marks)
- (b) Compulsory Acquisition (5 Marks)
- (c) Adverse possession. (5 Marks)

Question Four:

Briefly explain the advantages and goals of the registration system in Kenya. (15 Marks)

Question Five:

- (a) What arrangement constitutes a valid lease. (7 Marks)
- (b) Briefly explain how a leasehold arrangement can be terminated. (8 Marks)

Question Six:

- (a) What is a mortgage/charge and what are the five classes of legal mortgage. (6 Marks)
- (b) Describe the remedies available to a mortgagee/chargee in event of default by a mortgagor/chargor. (9 Marks)

END

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION

LAW OF PROPERTY IN LAND

20th November, 2017

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 Marks**
- (c) All other questions carry **15 Marks** each

PLEASE TURN OVER

Question One:

- (a) In Law of Property in Land, there are rights that exist in the soil and or on the ground. These rights fall under the Doctrine of Servitudes. Explain (10 Marks)
- (b) Explain the following overriding interest that serve as restrains on deposition of Land.
- (i) Caution (5 Marks)
 - (ii) Restriction (5 Marks)
 - (iii) Inhibition (5 Marks)

Question Two:

- (a) Explain what is Co-ownership in land and the doctrines of "*jus accrescendi*" (8 Marks)
- (b) How and when is Co-owners of land terminated. (7 Marks)

Question Three:

- (a) Outline the Statutes under which different rights and interests in land can be registered. (7 Marks)
- (b) Outline the goals of registration of rights and interest in land. (8 Marks)

Question Four:

- (a) Briefly explain the contractual obligations of a tenant in a Lease Agreement and that of a Landlord. (8 Marks)
- (b) How is a Lease Agreement terminated? (7 Marks)

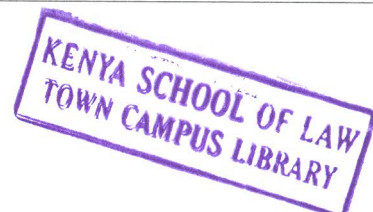
Question Five:

- (a) What are the fundamental rights of a mortgagor (or chargor) in borrowing transaction?
- (b) Describe the different remedies available to a mortgagee/chargee in a legal mortgage/charge

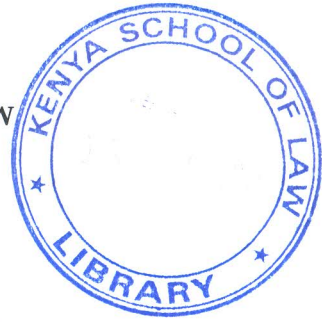
Question Six:

- (a) Explain the advantages of registration system, that ensure that land as property remain a major means of production as compared to other factors of production in Kenya. (8 Marks)
- (b) Explain the different ways in which rights and interest in land are changed. (7 Marks)

END



THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION

LAW OF PROPERTY IN LAND

19th November 2018

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

Question One:

- (a) Outline the development of Law of Property in Land from 1898 to 2016 citing relevant legislative provisions. (20 Marks)
- (b) Explain classification of land according to the Constitution of Kenya, 2010. (5 Marks)

Question Two:

- (a) Discuss the features of the Land Registration Systems in Kenya (10 Marks)
- (b) Explain five overriding interests subject to a registered land. (5 Marks)

Question Three:

- (a) Elaborate two maxims explaining the nature of Property in Land and exceptions if any. (10 Marks)
- (b) Explain the distinction between possession and ownership. (5 Marks)

Question Four:

- (a) With aid of decided cases, discuss the essential characteristics of an easement. (10 Marks)
- (b) Explain two types of land tenure systems in Kenya. (5 Marks)

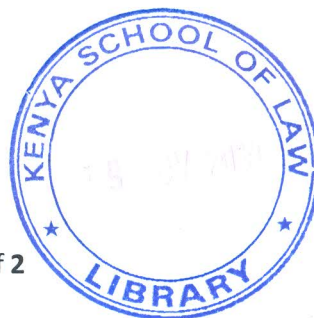
Question Five:

- (a) Explain ways which a person can acquire property in land. (5 Marks)
- (b) Discuss the duties of a landlord to a tenant. (10 Marks)

Question Six:

- (a) Describe the charges outlined in the Land Act, 2012 (10 Marks)
- (b) Outline the implied covenants by the chargor. (3 Marks)
- (c) Explain the term Equity of Redemption. (2 Marks)

END



THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION



LAW OF PROPERTY IN LAND-DPS 204

26th November 2019

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

Question One:

- (a) Outline the development of Land Registration system from 1901 till present day highlighting the relevant statutes and any changes made in the system during this period. (15 Marks)
- (b) The Torrens System is the basis of the current registration system in Kenya. Briefly describe the principles that the system is based on. (10 Marks)

Question Two:

- (a) What is an easement and what are its defining characteristics? (7 Marks)
- (b) Write brief explanatory notes on the following:
- i. Adverse Possession (4 Marks)
 - ii. Compulsory Acquisition (4 Marks)

Question Three:

- (a) Define and outline the implied obligations of a Landlord in a lease agreement. (10 Marks)
- (b) What is the distinction between a lease and a license? (5 Marks)

Question Four:

- (a) Joshua owns a commercial building in Machakos County. He has subdivided the bottom floor into shop space and rented it out to various tenants. These tenants have signed a five-year lease agreement. He has been having some issues with some of the shop owners and has sought your advice on how to handle them and possibly evict them.

Advise him on the grounds on which he can terminate the lease agreement and the procedure to be followed. (10 Marks)

- (b) Explain the purpose of the Land Control Board and the procedure of appearing before it. (5 Marks)

Question Five:

- (a) Define a charge and a mortgage and outline the distinction between the two. (5 Marks)
- (b) Outline the remedies of a charge under the Land Act 2012 in case of a default by the chargor. (10 Marks)

Question Six:

- (a) What is co-ownership of land and what are the rights of co-owners in case of the death of one of the co-owners. (7 Marks)
- (b) There are 4 unities that must exist for joint tenancy. Name and outline these unities. (8 Marks)

END