

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

FAMILY LAW AND SUCCESSION – PRB 005

11TH JANUARY, 2023

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 ONE: FAMILY LAW

QUESTION ONE

- (a) Using case laws where applicable, discuss consent as a requirement of marriages under the Kenyan Marriage Act 2014. (15 Marks)
- (b) Describe the characteristics of a competent witness to a marriage under the Kenyan Marriage Act. (10 Marks)

QUESTION TWO

- (a) Discuss the contents of a notice of intention to marry as stipulated under the Marriage Act 2014. (10 Marks)
- (b) Using case laws where applicable, explain the process of objection to a civil marriage as per the Marriage Act 2014. (15 Marks)

QUESTION THREE

- a) Using the case law where applicable, discuss the dissolution of marriages under the following headings:
- i) Presumption of death; (8 Marks)
 - ii) Adultery; (12 Marks)
- b) State any five (5) non-monetary issues that will be considered as contribution during the discussion of matrimonial property. (5 Marks)

QUESTION FOUR

- a) Using case laws where applicable, discuss how the courts determine the best interest of a child in cases concerning custody of children after divorce. (15 Marks)
- b) List any 10 rights of the child as stipulated under the Kenya Children's Act 2022. (10 Marks)

SECTION TWO: LAW OF SUCCESSION

QUESTION FIVE

Using case laws where applicable, discuss the following means of divolving property.

- a) Nomination (7 Marks)
- b) Surnvourship. (8 Marks)
- c) Gift in contemplation of death (*Donatio mortis causa*) (10 Marks)

QUESTION SIX

- a) Using case laws where applicable, discuss mental capacity as a requirement of writing valid wills (15 Marks)
- b) Discuss signatures of the testator as a requirement of a valid written will. (10 Marks)

QUESTION SEVEN

Using case laws where applicable, discuss revocation of a will by destruction. (25 Marks)

QUESTION EIGHT

Discuss division of the deceased property under the following headings:

- a) Where an intestate dies and leaves a spouse and child or children. (7 Marks)
- b) Rights of the Children under intestacy. (8 Marks)
- c) Considerations that the court will take into account when applying discretion while dividing property. (10 Marks)

END

