

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

THE LAW OF TORTS – PRB 003

11TH JANUARY, 2022

DURATION: 3 HOURS

9.00 AM – 12.00 NOON

Instructions to Candidates

- (a) Answer Question **ONE** and any other **THREE** Questions
- (b) Each Question carries 25 marks.
- (c) Marks shall be lost for illegible handwriting

PLEASE TURN OVER

QUESTION ONE:

- (a) Using examples, discuss the defence of self-defence in tort. (10 marks)
- (b) Outline the defences available to the defendant who has been sued under the rule in **Ryland vs, Fletcher (1866)**. (10 marks)
- (c) Explain the elements a plaintiff must establish to hold the defendant liable in negligence. (5 marks)

QUESTION TWO:

- (a) Bango and Bwire are neighbours. Bango is a lover of trees. He planted trees along his boundary with Bwire, the branches of which protruded 4 meters into the air space of Bwire's land. Bwire is aggrieved since he has requested Bango to cut the branches but he has refused. He has tried to negotiate with him but nothing is forthcoming. Advise Bwire on his rights. (10 marks)
- (b) Using decided cases, explain the defences available to a defendant sued for trespass to land. (15 marks)

QUESTION THREE:

- a) Outline four tests applied when a court is considering an action of defamation for both parties. (15 Marks)
- b) Elaborate the capacity of Heads of State and Diplomats to be sued in an action for tort. (10 marks)

QUESTION FOUR:

- (a) Discuss the defences available to the defendant sued under common nuisance. (15 marks)
- (b) Distinguish between libel and slander. (10 marks)

QUESTION FIVE:

Explain the following terms as used in the law of tort: -

- (a) *Res ipsa loquitur* (5 Marks)
- (b) *Volenti non-fit injuria* (5 marks)
- (c) *Salus populi supreme lex.* (5 marks)
- (d) *De minimis Non curat lex.* (5 marks)
- (e) Reasonable man. (5 marks)

END