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EXAMINATION FOR ADMISSION TO THE ROLL OF ADVOCATES

REGISTRATION NUMBER:

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CENTRE: Co-operative University JKUAT KASNEB Kenya School of Law

ATP103: LEGAL WRITING & DRAFTING

Examination Series: November 2025

Date: 20th November 2025

Time: 09:00AM - 12:00PM

Duration: 3 hours

Instructions to Candidates:

- Enter your registration number and tick the exam Centre in the space provided.
- Answer **FIVE (5)** questions, including question **ONE**, which is **COMPULSORY**.
- Question **ONE** carries **20 Marks**. All other questions carry **10 Marks** each.
- Attempt each question in the space provided.
- Answers **MUST** be supported by relevant statutory provisions and case law where required.
- Do not write your name in the booklet.
- Ensure your handwriting is **LEGIBLE**.

FOR EXAMINER'S USE ONLY

Question Number	Examiner		Internal Moderator		External Moderator		Quality Assurer	
	Mark	Initials	Mark	Initials	Mark	Initials	Mark	Initials
1.								
2.								
3.								
4.								
5.								
6.								
Total Marks								



QUESTION ONE

A. Study the following policy statements and draft penal provisions for each.

- i) To provide a general penalty provision for a maximum penalty of three months' imprisonment or a fine of one hundred thousand or both the imprisonment and the fine for any offence committed and for which no penalty has been specifically provided. **(2 marks)**
- ii) To provide a maximum punishment of one million shillings or imprisonment for five years or both the fine and imprisonment for persons in positions of authority in bodies corporate. Provided that such a person had knowledge of the commission of the offence and failed to take reasonable steps to stop the commission of the offence. And that prosecution of such persons shall not be dependent on conviction of the body corporate itself. **(4 marks)**
- iii) A person required to provide any information under the Act but knowingly provides false or misleading information will be punished by a maximum fine of five hundred thousand shillings. **(2 marks)**

B. Re-write the following sentences in active voice.

- i) The Artificial Intelligence Bill, 2025 and the Artificial Intelligence Policy 2025 were approved by the Cabinet on 10th December 2025. **(1 mark)**
- ii) On 6th August 2025, the demand letter from Wake's advocate was received by the University of Akili Mingi. **(1 mark)**
- iii) For the reasons that the application was too general and did not disclose any specific and urgent threat to her right to liberty, the applicant was not granted anticipatory bail by the court. **(1 mark)**
- iv) The Magistrate's ruling on bail and bond terms was appealed on 20th May 2025 by the accused person to the High Court. **(1 mark)**

C. Mzee Matata and Mwalimu Mkuu have been good friends for a very long time. Mwalimu Mkuu retired in the year 2022 and ventured into farming. In order to start meaningful farming, Mwalimu Mkuu requested Mzee Matata to loan him Ksh. 250,000/ to boost his savings. Mzee Matata acquiesced to the request and the two friends entered into an agreement on 20th May 2023. Mzee Matata sent the amount of Ksh. 250,000/ to Mwalimu Mkuu via MPesa the same day they signed the agreement.

The two friends agreed that the loan amount together with an interest of Ksh. 20,000/ was to be repaid in five equal quarterly instalments, commencing 1st January 2024. Whereas Mwalimu Mkuu repaid the first two instalments, he failed to repay subsequent instalments. Despite numerous reminders by Mzee Matata, the balance of the loan has not been repaid. This has greatly strained the good relationship the two friends had always enjoyed.

Mzee Matata has approached your law firm for assistance to recover the outstanding amount from Mwalimu Mkuu. Prepare the appropriate document. **(8 marks)**



QUESTION TWO

In August 2023, the Ministry of Education (MoE) directed the Kenya National Examinations Council (KNEC) to roll out a refreshed digital workflow for Kenya Primary School Education Assessment (KPSEA) for grade 6 assessment, placement and appeals. The directive followed an incident where a primary school circulated a spreadsheet of grade six scores and names on a messaging app, prompting parents to complain and the Office of the Data Protection Commissioner (ODPC) to issue warnings.

Determined to prevent a repeat, the MoE now requires a single written instrument that comprehensively governs the collection, use, sharing, storage, retention, security, cross-border transfers and breach handling of KPSEA grade 6 data across the entire workflow.

Within this framework, institutional roles are fixed: the MoE is the data controller and custodian of the instrument; KNEC acts as the joint controller, and public and private primary schools function as data processors. The lawful basis for processing the data is expressly limited to what is necessary for a task carried out in the public interest and to comply with a legal obligation. Because the processing concerns children's data, parent/guardian consent is required, and age verification must occur at grade 6 registration to ensure consent is valid and attributable.

All identifiable learner data should be retained for six years from completion of grade 6 and then de-identified. No personal data may be transferred outside Kenya, unless there is an ODPC recognized adequacy decision or appropriate safeguards in place and each arrangement must be recorded. An adequacy decision is a formal determination by the ODPC that a destination country/territory/organization ensures an adequate level of data protection. To safeguard confidentiality, integrity and availability, the instrument must impose appropriate technical and organizational security measures and set strict breach notification timelines. Any processor must notify the controller within 48 hours of a personal data breach, and the controller must notify the ODPC within 72 hours and affected parents/guardians be informed without undue delay where there is a real risk of harm. The institutions that are data processors or data controllers are required to appoint a Data Protection Officer (DPO). This will be the central person to communicate with in relation to matters of data protection.

Where ICT vendors and cloud hosts are engaged, they will be treated as processors and are bound by a written Data Processing Agreement (DPA) that includes audit rights. Throughout implementation and communication, the instrument must guarantee English/Kiswahili parity and ensure reasonable accommodation for learners with disabilities. This will ensure that access to information and processes is equitable for all grade 6 learners and their families.

Working only with the given facts, draft the appropriate document that the Ministry of Education would issue to set the rules and procedures for handling KPSEA grade 6 learners' data across assessment, placement and appeals. Use clear numbered sub-sections and clauses.

(10 marks)



QUESTION FOUR

The Republic of Yohana promulgated its new Constitution in 2010 thereby establishing devolved system of governance comprising of Nine (9) County Governments. Each county consists of the Executive arm of government and the legislative arm (County Assembly).

Jiponde is one of the counties in the coastal region of the Republic of Yohana. Devolution included the transfer of certain functions from the national government to the devolved units. Water is one such function that was devolved to counties, enabling each county to set up a water company within the framework, of the Companies Act, a national legislation with application across the entire jurisdiction of Yohana. It applies to both national and county governments in relation to formation of companies, their management and dissolution.

Under this framework, the County governor has the power to appoint and dismiss a chairperson to the board of directors of the water company whereas the county minister of water has the power to appoint and dismiss members of the board of directors.

The dissolution of such companies is governed by the provisions of the Companies Act of the Republic of Yohana which at sections 894 lays out the only procedure and circumstances under which companies may be dissolved. Under this provision, the Registrar of Companies may strike off a company not carrying on business or not in operation.

Some of the ways in which companies may be dissolved under the Act includes: Compulsory winding up by the Court, Voluntary dissolution of the company by members or creditors, and winding up of the company under supervision of the court.

On 7th June 2025, the County Assembly of Jiponde passed a resolution adopting the report of the Assembly's Public Investments and Accounts Committee dated 3rd May 2025 on the financial statements of the Jiponde Water Services Company Limited (JIWASCO) for the year ended 30th June 2023. In its resolution, the County Assembly in essence resolved that JIWASCO be immediately dissolved and its functions taken over by the county department in charge of water services which was to henceforth undertake the operations of water services in Jiponde County. The County Executive oppose this move and its Director of Legal Services has approached the firm of GGG Advocates LLP seeking advice on the legal position relating to the unfolding events in the Assembly.

Draft the appropriate document advising the County Government of Jiponde. (10 Marks)



QUESTION FIVE

Section 142 of the Water Act (Cap. 372) gives the Cabinet Secretary for Water, Sanitation and Irrigation, the power to make regulations to provide for water harvesting and storage. The Act also establishes the National Water Harvesting and Storage Authority headed by a Chief Executive Officer (CEO).

As a senior legal counsel in the National Water Harvesting and Storage Authority, the Chief Executive Officer of the Authority has requested you to prepare draft regulations on water harvesting and storage for onward transmission to and approval by the Cabinet Secretary. The draft regulations to provide for roof-based water harvesting, land-based rainwater harvesting, rainwater harvesting by agricultural establishments, storm water run-off and provision for technical and capacity building support. The new regulations provide for further functions of the Authority which includes: undertake on behalf of the national government the development of national public water works for water resources storage and flood control; collect information for the formulation by the Cabinet Secretary of the national water resources storage and flood control strategies; implement and maintain a website, which shall provide technical and capacity building support to enable compliance with these regulations; development of water harvesting policy; and enforcement of water harvesting strategies. The new regulations also revoke the current regulations enacted in 2021.

Specifically, the CEO indicates that the draft regulations should clearly set out the following aspects:

- i. Citation;
- ii. Purpose;
- iii. Functions of the Authority;
- iv. Roof-based rainwater may be harvested for use through a filter into a storage tank;
- v. Any building constructed and to be utilized as an institutional facility, place of employment, manufacturing or industrial establishment, commercial establishment or place for service of customers, shall have its roof adequately guttered for collecting rain water or may have a ground catchment for purposes of collecting rain water pursuant to these regulations;
- vi. Land-based rainwater harvesting shall be done using the appropriate ground water recharge structures;
- vii. The National Water Harvesting and Storage Authority shall implement and maintain a website which shall provide technical and capacity building support to enable compliance with these regulations;
- viii. Every agricultural establishment using water resources for irrigation purposes shall implement water harvesting and storage measures capable of storing flood water;
- ix. Rainwater from the roof of the buildings with tiled or sloped roof and flat roofs may be harvested using sized gutters;
- x. A county government shall put in place measures to ensure that provision is made for planning, managing, and improving drainage services and storm water run-off collection within its area of jurisdiction;
- xi. Revocation of current Regulations enacted in 2021.

Prepare the draft regulations.

(10 Marks)



QUESTION SIX

Read the following excerpt from a legal opinion. The passage suffers from poor drafting and lack of clarity. Identify the mistakes linked to qualities of good English and drafting. For each mistake you identify and name, you should quote the specific phrase(s) that demonstrate the error.

“The employer’s conduct in dismissing the client was obviously wrong and totally unacceptable and the client is extremely hurt and disappointed by this action which was done in a manner that was not in compliance with the law. And immediate reinstatement and a generous compensation are deserved because what happened amounts to unfairness, injustice and illegality all at one. The law is clear and settled that no employer should dismiss an employee unfairly, unreasonably and unjustly and in this case the dismissal was not fair, not reasonable, not justified and therefore the court must step in quickly otherwise the injustice will continue to hurt not just this client but also others.

It is important to also point out that the client, who has worked diligently for more that fifteen years with a clean record, was dismissed suddenly and abruptly without any explanation, proper steps which are required under the constitution, statutes, common law, natural justice, fairness and decency were not allowed and the dismissal has caused a lot of suffering, emotional distress, mental anguish and personal loss to the client. This case is about fairness, legality, propriety, justice and morality, and it is clear that the employer acted in a bad way that was not proper, and the court must find in favor of the client because such conduct should not be tolerated.”

(10 marks)

REGISTRATION NUMBER

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