



## **GARISSA UNIVERSITY**

### **UNIVERSITY EXAMINATION 2017/2018 ACADEMIC YEAR ONE SECOND SEMESTER EXAMINATION**

#### **SCHOOL OF EDUCATION, ARTS AND SOCIAL SCIENCES FOR THE DIPLOMA IN PUBLIC ADMINISTRATION**

**COURSE CODE: DPA 09**

**COURSE TITLE: ELEMENTS OF ADMINISTRATIVE LAW**

**EXAMINATION DURATION: 3 HOURS**

**DATE: 12/04/18**

**TIME: 09.00-12.00 PM**

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#### **INSTRUCTION TO CANDIDATES**

- The examination has SIX (6) questions
- Question ONE (1) is COMPULSORY
- Choose any other THREE (3) questions from the remaining FIVE (5) questions
- Use sketch diagrams to illustrate your answer whenever necessary
- Do not carry mobile phones or any other written materials in examination room
- Do not write on this paper

**This paper consists of THREE (3) printed pages**

***please turn over***



### QUESTION ONE (COMPULSORY)

Tom earns a living by selling daily needs from a kiosk in Loita Street for which he has a valid trading license. On Friday 12th September, 2010 he received a letter from the City Council asking him to move his kiosk to some other locality. However his friend Harry was never issued such a letter and was allowed to carry out his business from the same street as usual. Tom was doing a good business and refused to leave. On 18<sup>th</sup> September, 2010, he received another letter from the City Council revoking his license with effect from the following day. No reason was given for this action. Tom appealed against the decision and was told he could appear in person before a special meeting of the License Appeals committee on 22<sup>nd</sup> September, 2010. However, he was refused legal representation at the hearing and was also prevented by the Chairman from cross examining the witnesses. The decision to revoke his license was confirmed by the Appeals committee who's Chairman was Harry's Uncle. Again, no reasons were given for this decision.

- (a) Advise Tom on how he may have the decision by the City Council quashed in a Court of Law based on any **FIVE** Principles of Natural Justice. **[15 Marks]**
- (b) Explain any **TWO** purposes of judicial review. **[4 Marks]**
- (c) State and explain any **THREE** characteristics of delegated legislation **[6 Marks]**

### QUESTION TWO

- (a) There are two articles in the Kenyan Constitution that are particularly relevant to Public Interest Litigation. Briefly explain the content of these **TWO** articles. **[4 Marks]**
- (b) Identify and explain any **TWO** significant developments for Public Interest Litigation in Kenya. **[4 Marks]**
- (c) Explain any **TWO** emerging issues in Administrative Law in Kenya **[4 Marks]**
- (d) State any **THREE** disadvantages of arbitration. **[3 Marks]**



### QUESTION THREE

- (a) Highlight on **THREE** remedies the Courts can grant for judicial review. [6 Marks]
- (b) Differentiate between orders of *Certiorari* and Prohibition. [4 Marks]
- (c) Identify any alternative methods of dispute resolution outside the Court [3 Marks]
- (d) State and briefly explain **TWO** major categories of Law. [2 Marks]

### QUESTION FOUR

- (a) State and explain at least **FIVE** grounds that may warrant judicial review. [10 Marks]
- (b) The Parliament has put in place various mechanisms in its attempt to control or contain delegated legislation. Briefly explain any **FIVE** of these mechanisms. [5 Marks]

### QUESTION FIVE

- (a) The system of administrative structures that exist today did not exist in pre- colonial societies. In view of this, make short notes on the History and Development of Administrative Law in Kenya. [10 Marks]
- (b) The Principles of Natural Justice are rules that govern procedure and conduct of administrative bodies. State and briefly explain any **FIVE** principles of Natural Justice. [5 Marks]

### QUESTION SIX

- (a) Delegated Legislation is described as a “necessary evil” or “constitutional impropriety”. State and explain any **TWO** advantages and disadvantages of delegated legislation. [4 Marks]
- (b) Write short notes on:
  - i. Separation of powers [3 Marks]
  - ii. Independence of the Judiciary [3 Marks]
- (c) The concept of Rule of Law is a framework developed by Dicey on the basis of the English legal system. Explain any **TWO** concepts of the Rule of Law according to Dicey [4 Marks]
- (d) Define Administrative Law [1 Mark]

