



# KISII UNIVERSITY

## UNIVERSITY EXAMINATIONS FIRST YEAR EXAMINATION FOR THE AWARD OF THE DIPLOMA IN LAW SECOND SEMESTER, 2021/2022 (FEBRUARY – JUNE, 2022)

### DLAW 0122: ADMINISTRATIVE LAW

**STREAM: DLAW 1 S2**

**TIME: 2 HOURS**

**DAY: WEDNESDAY, 9:00 – 11:00 A.M.**

**DATE: 25/05/2022**

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### **INSTRUCTIONS**

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE [Compulsory] and any other TWO Questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

### **QUESTION ONE**

Judicial Review. It is the process whereby a court of law examines the conduct of a body to establish whether or not that body has acted lawfully within the scope of its useful powers. Many of the tasks of public authorities in administering public services are not of a character suitable for decision by a court control of these questions are essentially a matter of administration and political need yet public authorities to do regulate private activities licensing and other controls and may confer benefit or impose burdens upon individual. The law is important here to the extent if it determines the use of the individual. Judicial control is not substitute for administration or political control of the merits expedite and efficiently of decision made conform to the law and their certain standards of fair procedures are observed. The substances principle of

judicial review is simply that the decision maker must act in accordance with the law firmly and reasonably. Discuss

- a) Types of judicial review. **(8 marks)**
- b) The functions of judicial review. **(8marks)**
  
- c) Discuss reasons why Sources of administrative law contain reliable and /or unreliable information. **(8marks)**
  
- d) Explain the composition and jurisdiction of the Supreme Court and High Court of Kenya. **(6 marks)**

## **QUESTION TWO**

Damages are the formal remedy for the remedy of grievances. The main purpose of damages is to compensate a person for the harm he suffered from an under full act. Thus damages mean a compensation for a loss or damage caused by another act.

This is an order requiring some person of authority to refrain from committing a torture of contract or from breaking the law. It provides a good alternative to action for damages and available against public authorities as it is against private persons.

It is the name given to a variety of aims in bringing a person to a court or judge. It means procedure the person (body) of the subject. It is used to secure the release of a person from unlawful imprisonment. Its purpose is to test the legality of the detention or imprisonment and (state) an account of why the liberty of the subject is restrained.

It is an order of the high court directed to the person, corporation or lower court requiring such body to do some particular thing which pertains to his office their public duty. If the performance has been refused by the office concerned. The remedy is advised for securing the performance by subordinate courts, tribunals etc of their public duties.

It is an order directed to a superior forbidding them from commencing or proceeding in a case pending before them. It says in effect that the power to deal with the matter does not belong to 21 that subordinate courts or tribunal or office and that such adjudicating body is lacking or exceeding its jurisdiction.

The order prevents a subordinate court or tribunal from exceeding or continuing forced jurisdiction or infringing the rule of natural justice issued before the final decision is given.

It is an order of the high court to a subordinate court, tribunal or authority requiring it to produce a certified record of a particular case tried there in, and to send the record to the court for review.

Once the record goes to the court it is examined and if the decision of the lower court or authority is found to be in appropriate, it is quashed (declared invalid). The functions of the courts are to ensure that these bodies exercised their powers within the limits prescribed by parliament.

Summarize the above information and explain the legal principles under the Kenya Law. **(20 marks)**

### **QUESTION THREE**

- a. Discuss the conditions which govern the right to a fair hearing process in Kenya. **[6 marks]**
- b. Discuss the provisions of law relating to commissions of inquiry in Kenya. **[10 marks]**
- c. Explain the concept of natural justice and principles of natural Justice. **[4marks]**

### **QUESTION FOUR**

- a) Discuss the provisions of law relating to the judgment of the case by the house of Lords in Ridge vs Baldwin. **[8 marks]**
- b) Discuss various types of administrative types of tribunals in Kenya. **[4 marks]**
- c) Discuss the forms of control exercised by the central government over local authorities. Comment on the case of the new constitution. **[8 marks]**

### **QUESTION FIVE**

- (a) Explain the following terms
- i. Nemojudex in causasua. **(2 marks)**
  - ii. Audi alteramparten. **[2 marks]**
- (b) Discuss the structure of government organs of control in Kenya. **[6 marks]**
- (c) Explain the need for delegated legislation and criticisms of delegated legislation. **[10 marks]**