



# KISII UNIVERSITY

## UNIVERSITY EXAMINATIONS

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

### DLAW 0226: LAW OF SUCCESSION

**STREAM: DLAW 2 S2**

**TIME: 2 HOURS**

**DAY: TUESDAY, 12:00 – 2:00 P.M.**

**DATE: 31/05/2022**

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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**

(a) Property can pass after death but not through a will. Citing relevant case laws and statutes, discuss the various modes of passing of property other than by the will. **(15 marks)**

(b) Deborah and Cynthia are law students from Kisii University. They have been selected to represent the institution to give their submissions on the process of writing a will, taking into consideration the essentials of a valid will. Advise them accordingly. **(15 marks)**

## **QUESTION TWO**

- a) Discuss in depth Grant of Probate and Grant of Letters of Administration and the mode of application for each grant, as well as, the different types of temporary grants particularly where perishable goods need to be dealt with, and access to bank accounts for immediate use are concerned. **(12 marks)**
- b) Citing the various case laws and provisions in the Succession Act 1981, discuss ways in which the will can be revoked. **(8 marks)**

## **QUESTION THREE**

- a) Discuss the laws of succession applicable in Kenya before 1981 taking into account their differences with the law of succession as currently applied in Kenya. **(10 marks)**
- b) Section 9 of the Kenya Succession Act, 1981 provides for and gives details of oral wills. Discuss:-
- i) The essential requirements of a valid oral will. **(4 marks)**
  - ii) The rationale in contemplation and exceptions thereof, in an oral will. **(6 marks)**

## **QUESTION FOUR**

According to Sir J.P in the case of *Lemage vs Goodban* (1865), the will of the man is the aggregate for testamentary intention as they are manifested in writing and executed according to the statute. A will is primarily concerned with the disposal of the property but can also be used for other purposes. Discuss;

- a) purposes of the will. **(5 marks)**
- b) the essential elements of the will. **(5marks)**
- c) the merits of the will. **(5 marks)**
- d) state and explain the reasons why majority of the people die without writing wills (intestacy). **(5 marks)**

## **QUESTION FIVE**

- (a) Write explanatory notes on the following:-

- (i) Citation. **(5 marks)**
- (ii) Attestation. **(2 marks)**
- (iii) Intermeddling with the deceased property. **(5 marks)**
- (b) Define the following terms as used in the law of succession:-
- (i) Succession. **(2 marks)**
- (ii) Intestacy. **(2 marks)**
- (iii) Bequest and legacy. **(2 marks)**
- (iv) Types of grants. **(2 marks)**