

COUNCIL OF LEGAL EDUCATION



EXAMINATION FOR ADMISSION
TO THE ROLL OF ADVOCATES

ATP 105: PROFESSIONAL ETHICS & PRACTICE

THURSDAY 8TH DECEMBER, 2016

DURATION: 3 HOURS

Instructions to Candidates

- (a) This paper contains **Four printed pages** including the cover page, with a total of **Six questions**
- (b) Candidates **MUST** answer **FIVE** questions
- (c) **Question ONE** is compulsory and carries **20 marks**
- (d) **All other questions** carry **10 marks each**
- (e) Answers **MUST** be supported by relevant case law and statutory provisions where required

PLEASE TURN OVER

QUESTION ONE

“The development of law as a profession has coincided most conspicuously with the increase in its regulation. Alas, the advocate has constantly kept one step ahead of regulations.” (Anon)

Discuss the above statement in light of the development of Kenya’s regulatory framework for the legal profession and the advocate. **(20 marks)**

QUESTION TWO

Lakika has been employed at a non-legal company as a legal officer. In the course of employment Lakika registered a law firm and intended to resign and engage in private practice.

Lakika and his former employer negotiate an arrangement whereby Lakika continues to act as their legal officer. In addition, Lakika is at liberty to take instructions from other clients and employ advocates to work at the firm which is situated within the same office of the non-legal company.

Discuss the extent of responsibility of Lakika in relation to legislative provisions:

- (a) As an employee of a non-legal company and the extent of engagement and remuneration. **(3 marks)**
- (b) Entitlement of Lakika with regard to provision of legal services and fees paid to the employer. **(3 marks)**
- (c) Clearly distinguish the responsibility of Lakika if allowed to accept instructions from other clients when in employment and when sharing accommodation with a non-legal entity. **(4 marks)**

QUESTION THREE

Ludia is quite upset with her advocate Rumona. In Ludia’s view, Rumona has cost her a lot in losing her case at the High Court both for the substantial sums of money involved and the costs of the suit. She has approached you as a student at the Kenya School of Law for some advice on the way forward. She states the following:

“Firstly, the Pastor who referred me to Rumona never informed me that her offices were located on such a noisy street. When I walked into the office I met a young girl behind the reception counter who seemed rather disinterested in me and continued painting her nails. On informing her that I had an appointment with Rumona for 2 p.m., she told me that I would have to wait for about an hour as Rumona is usually late to the office after lunch. Given that I really needed the services of an advocate I decided to wait. I was told to wait while seated on a bench at the neighbouring medical clinic because there were no extra seats at Rumona’s office.

After waiting for one and half hours, I was ushered into Rumona’s office. The room had a rather old and torn carpet that smelled quite dusty and in need of a thorough wash. The ‘office’ was rather dimly lit and distastefully furnished. I was shown a rickety chair that kept