



PUBLIC SERVICE COMMISSION

## ADMINISTRATIVE OFFICERS' EXAMINATION

APRIL, 2023

PAPER CODE: 101

LAW

DATE: TUESDAY 18<sup>th</sup> APRIL, 2023

TIME: 9.00 A.M. – 12.00 P.M. (3 HOURS)

### INSTRUCTIONS TO CANDIDATES:

1. This paper consists of two sections A and B
2. Section A consists of **one** compulsory question carrying 40 marks
3. Section B consists of **four** questions each carrying 20 marks. Answer any **three** questions.
4. Answers all the questions in the answer booklet provided.

## **SECTION A: COMPULSORY (40 MARKS)**

1. Read the case study below and answer the questions that follow:

### **“SOTE TUUMIE” MOVEMENT IN VULI COUNTY**

Miti Bora and Maji Mazuri are neighboring divisions within Vuli County in the Republic of Kenya. The residents of Miti Bora and Maji Mazuri have lived together peacefully for the past fifty years. This is because both divisions have depended on each other due to the natural resources they share. Maji Mazuri has plenty of water from the numerous rivers and streams that have their sources from Miti Bora forests. The Assistant County Commissioners from both divisions have held joint Barazas to sensitize the residents on how they can share the ecosystem resources and biodiversity.

In recent years the rivers and streams of Maji Mazuri have been drying up causing hunger in the division due to food shortage. There has been animosity between the residents of the two divisions and minimal joint Barazas. Upon investigations it was revealed that Mr. Pendo, a resident of Miti Bora division and an employee of Vuli County Government had mobilized the youth in Miti Bora to cut down trees. This has affected most of the sources of the rivers and streams.

Mr Pendo had been complaining that whereas Maji Mazuri residents have enjoyed the water and vegetation, the residents of Miti Bora have been forced to buy food substances from Maji Mazuri yet the sources of the streams and rivers are from their division. He decided to save his people from the anguish of buying food by destroying the source. His slogan had been “sote tuumie”. His slogan was heard in the various joint Barazas which ended up with disruptions. Mr Pendo started moving from one household to the other asking the residents not to attend any joint barazas. He designed some t-shirts with the slogan “sote tuumie” as a demonstration of his movement. The youth residing in Miti Bora division joined the movement and were always shouting “sote tuumie”.

Word got to the Governor of Vuli County and together with the leadership of the county they mobilized police officers to arrest Mr. Pendo and the youth and locked them up in the cells for seven days without presenting them in court. Their family members were neither allowed to see them nor talk to them. All their bank accounts were frozen. They tried engaging their lawyers but were not allowed to. The media was shut down to ensure they did not make any reports concerning the arrests. Mr Pendo tried to enforce his rights according to Article 49 of the Constitution of Kenya but this fell on deaf ears.

After seven days Mr. Pendo received his dismissal letter and was banished from Vuli County together with his family members. They were warned against setting foot in the vicinity of the

county. Mr. Pendo has approached you, as the Assistant County Commissioner with the idea of suing the Governor and the leadership of the county for what he terms as wrongful dismissal and violation of his rights. After weighing the matter, you advised him to seek an out of court settlement through Alternative Dispute Resolution. Due to the trauma Mr. Pendo has experienced, he has even forgotten which rights have been infringed and what remedies are available to him. He is also not aware of the applicable principles of Natural Justice.

**Required:**

- a) Devise **six** principles of Natural Justice applicable to Mr. Pendo. **(12 marks)**
- b) Highlight **four** provisions of the Public Officer Ethics Act, 2016 that Mr. Pendo, being a public officer may have violated through his actions. **(8 marks)**
- c) Explain **four** remedies available to Mr. Pendo for being dismissed from public office. **(8 marks)**
- d) As the Assistant County Commissioner, you advised Mr. Pendo to seek an out of court settlement through Alternative Dispute Resolution. Explain to Mr. Pendo, **six** demerits of court process. **(12 marks)**

**SECTION B: ANSWER ANY THREE QUESTIONS (60 MARKS)**

- 2. a) Residents in your area of jurisdiction are reluctant to take insurance of their agricultural activities as they term it as a gambling venture. As the area Assistant County Commissioner you intend to sensitize the residents on the benefits of insurance. Explain **four** benefits of insurance that will form part of your presentation. **(8 marks)**
- b) As an administrative officer you are chairing a meeting with the residents to disseminate information about the developmental goals of the National Government for the area. Bwana Pombe keeps interrupting you with trivialities and this is making the residents impatient. Through your powers as the chair, you order for his ejection from the meeting. Angry, Bwana Pombe rushes towards you and punches you in the eye, before the orderlies pull him off you and remove him from the room.
  - (i) Identify the tort raised by Bwana Pombe's action. **(2 marks)**
  - (ii) Explain five elements of the above tort. **(10 marks)**

3. a) Jumbe and Kazombe are kinsmen living in the area where you are serving as an Administrative Officer. The two have been having a long running feud emanating from the fact that Kazombe's animals frequently enter Jumbe's land and destroy his crops. You advise the two to refer the matter for settlement with the village elders under customary law. Explain **five** legal basis for the application of customary law as related to the case. (10 marks)
- b) Suku women's group which is in your area of jurisdiction has recently ventured into chicken rearing. Subsequently, they intend to register the group as a company. To avoid any future wrangles in the management of the affairs of the company, they want to document their internal relationship as shareholders. Explain to them:
- (i) The manner in which they can document their internal affairs. (2 marks)
  - (ii) The provisions to be covered by the said documentation. (8 marks)
4. a) Youth in Kazi Bora division intend to take boda-bodas on hire purchase. As the area Assistant County Commissioner, advise the youth on **six** duties they must comply with as hirer upon entering into the intended hire purchase agreement. (12 marks)
- b) Madini Mining Company has been operating mines in your area of jurisdiction for the last two months. It has come to your notice that they have been engaging children to work in the mines. You have called a baraza to educate the residents about the rights of children to be protected from economic exploitation under the Children's Act, 2011. Explain **four** instances that would lead to such economic exploitation. (8 marks)
5. a) Yogo, Lebo and Fatuma have been carrying on a delivery business as a partnership for the last six months. They have been able to build a portfolio of clients. Recently, Fatuma and Lebo discovered that Yogo has been doing his own delivery business on the side and has been stealing the partnership's clients. Describe **five** measures that Fatuma and Lebo may undertake to deal with the situation created by Yogo's actions. (10 marks)
- b) Mary who hails from your division has recently been diagnosed with breast cancer and is set to undergo surgery. However, she fears that she may not make it through the surgery. Not wanting to write a will, she contemplates donating some of her property to some of her friends and relatives. She comes to you wanting to know the legal requirements governing such donation. Explain to her **five** such requirements under the law of succession. (10 marks)

(10 marks)