



KENYATTA UNIVERSITY
EXAMINATION FOR THE DEGREE OF BACHELOR LAWS

LPL 214: ADMINISTRATIVE LAW

1ST SEMESTER 2021/2022

TIME: 2 Hours

INSTRUCTIONS:

1. ALL QUESTIONS ARE COMPULSORY.
2. Note that penalties accrue for failure to answer Questions One.
3. Support your answer with illustrations from relevant case laws, statutory provisions and any other applicable references wherever necessary
4. Write neatly and legibly
5. Your answer script must bear your student's registration number.
6. Do not scribble or draft answers on the inner or outer cover pages of your answer booklet.
7. Do not write anything except your registration number on this question paper

QUESTION ONE

- a) 'The maxim *delegatus non potest delegare* is sometimes invoked as if it embodies some general principle that made it legally impossible for statutory authority to be delegated.'
Per Wade Forsyth 10th edition. Oxford University Press)

Citing case law, describe the rationale behind the delegation (of authority or legislation)

- b) Green M.R in *Associated Picture Houses Ltd v Wednesbury Corporation* (1948) IKB223 held:

".....It is true the discretion must be exercised reasonably, now what does that mean? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretion often used the word "unreasonable" in a rather comprehensive sense. It has been frequently been used and is frequently used as a general description of things that must not be done. For instance a person entrusted with a discretion he must, so to speak, direct himself properly in law. How must call his own attention to the matters which he is bound to consider.

He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said to be acting "unreasonably". Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of authority. Warrington LJ in *Shaw v Poole cooperation* (1926) Ch. 66, 90, 91 gave an example of a red hire teacher, dismissed because she had red hair. That is unreasonable in one sense, in another sense it is taking into consideration extraneous matters. It is so unreasonable that it might almost be described as being done in bad faith: and in fact, all these things run into one another:....."

With aid of case law and illustrations demonstrate how the principle of administrative law established in the above scenario has been applied in Kenya today. (20 marks)

QUESTION TWO

Analyse the constitutional foundation of administrative law in Kenya. (20 marks)

QUESTION THREE

The principle *Nemo Judex in causa sua* and *audi alteram* are claimed to be at the pinnacle of administrative law, citing the provisions of the Constitution of Kenya 2010 and case law, explain their place in administrative law