



TECHNICAL UNIVERSITY OF MOMBASA

SCHOOL OF ENGINEERING AND TECHNOLOGY
DEPARTMENT OF ARCHITECTURE & BUILT ENVIRONMENT
UNIVERSITY EXAMINATION FOR:
BACHELOR OF ARCHITECTURAL STUDIES/ BACHELOR OF
ARCHITECTURE

EAR 4406: CONSTRUCTION LAW

YEAR FOUR SEMESTER II

END OF SEMESTER EXAMINATION

SERIES: MAY 2025

TIME: 2 HOURS

DATE: ~~Pick Date~~ May. 2025

Instructions to Candidates

You should have the following for this examination

-Answer Booklet, examination pass and student ID

-This paper consists of **FIVE** questions. Attempt question ONE (Compulsory) and any other TWO questions.

QUESTION ONE (COMPULSORY) 30 MARKS

- a) Describe TWO sources of unwritten law that are relevant to the construction industry in Kenya. (6 marks)
- b) Using examples in construction contracts, distinguish between:
 - i. an offer and an invitation to treat;
 - ii. expressed and implied term. (8 marks)
- c) Explain FOUR roles of the government in employment and labour relations. (8 marks)
- d) Describe FOUR functions of law in the construction industry. (8 marks)

QUESTION TWO (20 MARKS)

- a) Explain FOUR reasons for placing encumbrances such as caveats against land. (8 marks)
- b) Distinguish between each of the following in real property leases:
 - i. Periodic leases and fixed term leases;
 - ii. Voluntary waste and permissive waste;
 - iii. Forfeiture and distress for rent. (12 marks)

QUESTION THREE (20 MARKS)

- a) Explain each of the following types of employment and labour relations disputes.
 - i. Interest disputes;
 - ii. Right disputes. (8 marks)
- b) Describe the main stages in an arbitration process. (12 marks)

QUESTION FOUR (20 MARKS)

- a) Distinguish between termination of contract by frustration and by breach. (4 marks)
- b) Explain the circumstances that may cause a court to make orders for contract rescission as a remedy for contract breach. (4 marks)
- c) Using examples in building construction contracts, explain FOUR elements of a breach of contract claim. (12 marks)

QUESTION FIVE (20 MARKS)

A customer in a shopping mall has slipped, fallen and injured her ankle and hip as she walks on a wet slippery floor. She intends to sue the owner of the mall for damages. In this matter, explain each of the following

- a) the actions she should take before filing the case in court ; (2 marks)
- b) the appropriate court to file the case; (2 marks)
- c) the elements of tort of negligence she (plaintiff) has to prove against the defendant; (8 marks)
- d) the defenses that the mall owner may present to the court. (4 marks)
- e) the interim remedies she should seek from the court. (4 marks)