



UNIVERSITY OF BENIN

## NATIONAL INSTITUTE FOR LEGISLATIVE AND DEMOCRATIC STUDIES/ UNIVERSITY OF BENIN POST GRADUATE PROGRAMMES

### SEMESTER EXAMINATION

Programmes: **LLM**

Session: **2020/2021**

Semester: **1<sup>st</sup>**

Course Code: **LLM 811**

Course Title: **Subsidiary Legislation and Amendment**

#### Instructions:

- i. Answer Question **One** and any **Three** Questions
- ii. Time allowed: **3hours**    iii. Write your **Matriculation Number Only**
- iv. Orderly arrangement and good presentation of materials will be considered.

#### Question One

Paragraph 1(g) of the Fifth Schedule to the Nigerian Constitution 1999 (as altered) provides that the Local Governments shall have the function of "naming of roads and streets and numbering of houses" and may issue bye-laws in this regard. The provision also provides that the function shall be performed after a meeting between the Local Government Councils and National Association of Quantity Surveyors. Pursuant to these provisions, the Abuja Municipal Area Council (AMAC) issued a bye-law renaming Justice Abagyi Way as Mr. Talakawa Street while also providing that any person who resisted the renaming in any way shall have his or her house demolished. Justice Abagyi who resides at Justice Abagyi Way is aggrieved and has sought your legal advice. Citing relevant statutory and judicial authorities, advise him:

- (a) Listing the issues in dispute between the parties; **5 marks**
  - (b) Resolving the issues listed in (a) above serially; and **15 marks**
  - (c) On what classifications of *ultra vires*, if any, are involved in the dispute. **5 marks**
- Total: (25 marks)**

### **Question Two**

Discuss the stages in the drafting process of subsidiary legislation. **(15 marks)**

### **Question Three**

Critically analyse the advantages and disadvantages of textual and non-textual amendment. **(15 marks)**

### **Question Four**

Section 7 of the Penal Code provides:

A person shall be said to have committed the offence of theft if he takes a thing from the custody of another without that other person's consent and will have committed an illegal act as aforesaid punishable by imprisonment for twelve years and/or a fine of N500:

Provided that no person who takes a thing of a value worth no more than N150 shall not have committed the offence.

(a) Analyse the legalese challenges of the provision; **(10 marks)**

(b) Attempt a plain language redraft of the above provision i.e. section 7 of the Penal Code. **(5 marks)**

Total: **(15 marks)**

### **Question Five**

Discuss the process of initiating delegated legislation focusing on when it is necessary to make delegated legislation in the first place and the steps that the drafter must take upon being instructed to draft a piece of subsidiary legislation. **(15 marks)**

### **Question Six**

Subsidiary instruments have the appearance of a considerable violation of the doctrine of separation of powers. In many jurisdictions, the doctrine has been largely preserved, however, by a system for the parliamentary control of executive law making. Critically assess the scrutiny of delegated legislation by the National Assembly while recommending steps, if any that might improve the process. **(15 marks)**