



<u>FACULTY</u>	: Law
<u>DEPARTMENT</u>	: Procedural Law
<u>CAMPUS</u>	: APK
<u>MODULE</u>	: INL 100 INTRODUCTION TO LAW
<u>SEMESTER</u>	: Second
<u>EXAM</u>	: SSA January 2021 ONLINE

<u>DATE</u>	: 20 January 2021	<u>SESSION</u>	: 08:00-11:00
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<u>ASSESSOR(S)</u>	: MS M PILLAY/ MRG BOUWERS
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<u>MODERATOR</u>	: PROF DS DE VILLIERS
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<u>DURATION</u>	: 3 HOURS	<u>MARKS</u>	: 80
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NUMBER OF PAGES:

INSTRUCTIONS:

1. This exam has 3 PARTS: PART A (QUESTION 1-9), PART B (QUESTIONS 10, 11 and 12) AND PART C (QUESTION 13, 14, 15 and 16).
2. PART A consists of multiple-choice questions.
3. PART B and PART C are essay type questions.
4. In respect of the multiple-choice questions, please remember to read all the options in your question, before deciding on the correct applicable options and

their respective alphabets, before indicating your choice from the answers provided.

5. In respect of your essay type questions, please read the entire set of facts, before attempting to answer. Also pay special attention to the different instructions provided in questions 10, 11, 12, 13, 14, 15 and 16 for those specific questions.
 6. This paper has been drafted to be completed within 2 hours. All the questions add up to a mark of 80. HOWEVER, YOU HAVE BEEN GIVEN 3 HOURS WITHIN WHICH TO COMPLETE THE EXAM PAPER BECAUSE IT IS BEING ANSWERED ONLINE. ACCESS TO THE PAPER WILL THEREFORE END AT 11H00, IRRESPECTIVE OF WHAT THE EXAM TIMER INDICATES.
 7. You have been granted ONLY 3 attempts to complete the exam, in the event that you have connectivity issues.
 8. VERY IMPORTANT: WHEN ANSWERING THIS EXAM PLEASE BEHAVE WITH INTEGRITY AND HONESTY. PLEASE ANSWER THE EXAM QUESTIONS WITHOUT OBTAINING ADVICE OR ASSISTANCE OF ANY KIND FROM ANOTHER PERSON, SINCE THIS WILL CONSTITUTE DISHONEST BEHAVIOUR.
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PART A

QUESTION 1-9 (Multiple Choice)

[18]

1. Indicate which of the following statements apply in respect of *litis contestatio*:
- A. The applicant is *dominus litis*.
 - B. The defendant must defend the matter and apply for the court date so that he can defend himself in court and avoid paying damages.
 - C. It means that the matter has been fully described in the registered letters sent by the parties.
 - D. The matter will be enrolled as a rule *nisi* because other parties might object to the admission.

Options

- a. A and C only
- b. C and D only
- c. B, C and D only
- d. A and D only
- e. B and C only
- f. None of the above options are correct (A-D) (2)

2. Which of the following statements are true in respect of the law of the Republic of South Africa:
- A. Where a party to civil court proceedings is unhappy with the judgment, they may approach a higher court for a review of the matter should the party be of the opinion that there was an irregularity in respect of the process followed.
 - B. In South Africa, the judge in a civil matter actively participates in the court process.
 - C. The purpose of a replying affidavit is to allow the applicant to comment on the respondents answering affidavit.
 - D. Substantive law is that part of the law which determine the content and meaning of the different legal rules.

Options

- a. A, C and D only
- b. A, B and D only
- c. B and D only
- d. A, B and C only
- e. All of the above options are correct (A-D)
- f. None of the above options are correct (A-D) (2)

3. Antonio is very popular amongst all the female students at UJ because he is very handsome, rich and charming. Every girl that he chats up always agrees to go on a date with him. His friend Michael is very jealous. He wants to know the secret behind Antonio's success with the ladies. Antonio tells him that the reason why all the girls agree to date him is because of the seductive perfume that he wears. The perfume is called White Rose, and it is manufactured by John Nis-saan. Antonio insists that no girl can resist him when he wears it. It costs R5000 per 30ml bottle. Antonio has three extra bottles at home and offers to sell one to Michael. Michael agrees to the price and promises to pay Antonio at the end of the week. Michael applies the perfume and walks around campus trying to charm the ladies. After 3 hours, none of the 50+ girls that he has tried chatting up agree to go out on a date with him. Michael is furious. He drives to Antonio's house and throws the used perfume bottle at him. He refuses to pay for the perfume and tells Antonio to never speak to him again. Which of the statements below will apply to this set of facts:
- A. Michael is entitled to cancel the contract because none of the girls agreed to go out with him, even though he was wearing the same perfume as Antonio.
 - B. Michael's actions constitute repudiation.
 - C. Antonio may insist that Michael honour the agreement to pay for the perfume.
 - D. Michael does not need to pay for the perfume, due to error with regards to performance.

Options

- a. B and C only
- b. A and D only
- c. B, C and D only
- d. A and B only
- e. All of the above options are correct (A-D) (2)
- f. None of the above options are correct (A-D)

4. Which of the following statements are true in respect of legislation as a source of law in South Africa:
- A. Senate is able to pass legislation when the law no longer corresponds to the needs of modern society.
 - B. The government may first draft a white paper which presents various policy options on a particular topic, which is published for public comment.
 - C. A bill may be introduced in the National Assembly for a first reading.
 - D. A bill becomes an act once the President assents to it.

Options

- a. C and D only
- b. All of the above options are correct (A-D)
- c. A and C only
- d. B, C and D only
- e. A, B and D only
- f. None of the above options (A-D) (2)

5. Which of the following statements are true:

- A. It is not necessarily the case that a suspect may be arrested only after a docket is opened and a charge sheet is drafted.
- B. Bail must always be granted if it is in the interest of justice to do so.
- C. A plea agreement can be entered into before an accused person pleads in court.
- D. If a convicted person is of the opinion that he was not given a fair opportunity to present his case, there may be grounds to review the case.

Options

- a. B only
- b. B and D only
- c. A and C only
- d. A, C and D only
- e. All of the above options are correct (A-D)
- f. None of the above options are correct (A-D) (2)

6. There are several principles which the court applies when evaluating the credibility of a witness. One such principle is the cautionary rule. Generally, the cautionary rule applies in the following cases:

- A. The evidence of a single witness.
- B. Opinion evidence.
- C. The evidence of children.
- D. Character evidence.

Options

- a. C only
- b. B and C only
- c. A and C only
- d. A, B and D only
- e. All of the above options are correct (A-D)
- f. None of the above options are correct (A-D) (2)

7. In some instances, a court will visit a particular place or area where an accident or a crime took place. The evidence that this produces, constitutes which form of evidence?

- A. Electronic evidence.
- B. Oral evidence and real evidence.
- C. Documentary evidence.

- D. Real evidence.
- E. Direct evidence and real evidence.

Options

- a. D only
- b. B only
- c. B and C only
- d. A and D only
- e. E only
- f. None of the above options are correct (A-E) (2)

8. The following forms of evidence are always inadmissible:

- A. Character evidence.
- B. Opinion evidence.
- C. Hearsay evidence.
- D. Unconstitutionally obtained evidence.

Options

- a. A and B only
- b. A, B and C only
- c. B, C and D only
- d. A and D only
- e. All of the above options are correct (A-D)
- f. None of the above options are correct (A-D) (2)

9. Stacey offers to pay Phillip the sum R12 000 upon the completion of maintenance work at one of her property's. However, after the work has been completed, Phillip claims that Stacey refuses to make payment. Which court is best suited to hear the matter?

- A. The District Division of the Magistrate's Court.
- B. The Maintenance Court.
- C. The Regional Division of the Magistrate's Court.
- D. The Small Claims Court.

Options

- a. B and C only
- b. A, B and C only
- c. A and D only
- d. D only
- e. All of the above options are correct (A-D)
- f. None of the above options are correct (A-D) (2)

PART B

QUESTION 10

[14]

Craig owns a pub. It has been in his family for generations. Due to the worldwide Covid-19 pandemic, he has had to shut down his business in terms of the lockdown implemented by government. However, the lockdown has had a negative effect on his business and he was forced to sell his business. He had to sell his two bakkies valued at R150 000 each, the building that housed the pub, all his crockery and cutlery valued at R 100 000. He also sold all the tables and chairs valued at R50 000. He also decides to rent a smaller house. In order to make ends meet he starts selling the liquor stock that he had left over from the pub. He conducts this business because the ban on the sale of alcohol has been lifted.

Answer the following questions: (Pay attention to your language, leave a line between your answers, and number your answers correctly)

- 10.1 Identify 3 legal objects, together with their corresponding subjective rights, and provide a reason for your answer. (6)
- 10.2 One evening, just before curfew, Tom (a 5-time body building champion) decides to buy 3 bottles of whiskey from Craig. Tom is very drunk upon arrival, and refuses to pay the extremely inflated price of R1000 per bottle. He insists that Craig sell the whiskey at the normal price of R250 per bottle. Craig refuses. Tom then proceeds to smash all the bottles of alcohol in the house. He also smashes all the windows, and tears off all the doors in the house. The total damage is R350 000.

Craig is forced to call the police, and Tom is subsequently arrested, but makes bail. Craig wants Tom to compensate him for all the damages that he has suffered as a result of Tom's actions. Tom feels that he was within his right to "teach Craig a lesson" for trying to "rip him off". Craig wants to institute action, but Tom threatens to kill Craig if he does so.

Craig approaches you for advice. He wants to know if the law affords him any protection in light of Tom's threats; and he also wants to know how to proceed with a claim for damages.

Provide a comprehensive answer in respect of these 2 issues.

(Please note that your answer will be marked as a whole. If you merely type in the information that you think is relevant, no marks will be given. Your answer needs to read as advice, follow a logical structure, and be concise. Correct spelling and punctuation will also be taken into account.) (8)

QUESTION 11

[12]

Read the following provisions and identify whether they are suspensive or resolute in nature, as well as whether they are conditions or time-clauses. You need to provide reasons for each of your identifications.

- 11.1 Sarah, who hails from America, is on holiday in Durban when lockdown commenced in March 2020. She needs to rent a house until such time that she is able to return home. She signs a lease agreement with Zander, which states that the contract will terminate upon the worldwide eradication of Covid-19. (4)
- 11.2 Annabel agrees to pay Temba R 300 000 within one month after the death of her husband. (4)
- 11.3 Belinda agrees to buy Joanna's car, but only if she (Belinda) is able to obtain a car loan from the bank. (4)

QUESTION 12

[6]

Draft a comprehensive question/set of facts to which the following is the answer:

- 1. This is an illegal contract
- 2. The sale of cocaine is prohibited by law
- 3. Restitution may not take place
- 4. Since both parties are equally at fault

(Please note that your answer will be marked as a whole. If you merely type in the information that you think is relevant, no marks will be given. Your answer needs to read as an actual, logical question. It must make sense and be concise. Correct spelling and punctuation will also be taken into account. Do not use the example provided in the textbook.)

PART C

QUESTION 13

[11]

Please number your answers correctly and answer in sequence. This section will be marked as a whole. Only click on submit once you have completed ALL the questions (13.1 – 13.2).

Aaron, Edison and Marcus decide to open a small carwash business in their neighbourhood. They agree that a partnership would be best suited for this type of business. They approach you with regard to the following:

- 13.1 The partners are uncertain of the essential elements that are needed in forming a partnership. Provide a detailed discussion of this aspect. (7)
- 13.2 The principle of utmost good faith between the partners gives rise to 4 (four) identifiable duties. The partners would like to know what duties they owe to each other. (4)

QUESTION 14

[5]

S 164 of the companies Act 71 of 2008 provides for an independent remedy for dissenting shareholders. The remedy is referred to as a dissenting shareholder's appraisal right – that is, the right of a dissenting shareholder to require the company to pay the fair value of its shares in exchange for the shares. In exercising the appraisal rights in terms of s 164, list 5 (five) step procedure that a dissenting shareholder must follow.

QUESTION 15

[6]

In terms of the South African Constitution, both the National Assembly and the National Council of Provinces must approve in principle national bills. These bills may be adopted through one of three processes, depending on the nature of the bill. These include ordinary bills not affecting provinces, ordinary bills affecting provinces, and finally, bills amending the Constitution. What three levels (or threshold) of requirements are needed for amendments to different parts of the Constitution?

QUESTION 16

[8]

Please number your answers correctly and answer in sequence. This section will be marked as a whole. Only click on submit once you have completed ALL the questions (16.1 – 16.2).

A local authority evicted a group of squatters who settled on private land. The squatters argue that the state had not complied with its obligation to provide 'access to adequate housing'. With regard to the above scenario, answer the following:

16.1 Which generation of rights does the right to adequate housing fall into? (Provide a detailed discussion thereof). (5)

16.2 What 3 (three) duties does the right in 16.1 impose on the state? (3)

TOTAL:

[80]