



PROGRAM : LLB/BA (LAW)/BCOM (LAW)

SUBJECT : **LAW OF PERSONS AND THE FAMILY**

CODE : PER0000/LPF41YO

DATE : SSA EXAM JANUARY 2021

DURATION : FOUR HOURS

WEIGHT : 50:100 (of final mark)

TOTAL MARKS : 70

EXAMINER : DR. AE BONIFACE AND DR. W ROSENBERG

MODERATOR : PROF. M. WATNEY

NUMBER OF PAGES : 3 PAGES

INSTRUCTIONS TO CANDIDATES:

1. Answer all the questions on the answer paper (document). Provide relevant authority (case law and/or legislation) where applicable. Provide reasons for your answers.
2. Please write your surname, initials and student number on the answer paper.
3. Your answer paper must be loaded onto Blackboard under the “assignment” section.
4. You will have 4 hours to complete the exam, and your answers must be submitted within the allocated timeframe.
5. You may not seek assistance of a fellow student or the tutor. You may not use any part of another students answers to complete this assessment. You are reminded that all relevant rules and policies of the University and the Faculty applies to this test. In regard to the assessment, the normal academic integrity rules apply. For example, this means that you cannot cut-and-paste material other than your own work as answers for this assessment. By undertaking this online assessment, you will be deemed to have made the following declaration:
 “I certify that my submitted answers are entirely my own work and that I have neither given nor received any unauthorized assistance in this assessment item”.

QUESTION ONE

- 1.1. Briefly compare the capacity to act of a mentally ill person and a prodigal. (2)
 - 1.2. Explain the difference between a legal object and a legal person. (2)
 - 1.3. What is the “Bill of Rights” and why is it important for the Law of Persons and the Family?
Give reasons for your answer. (5)
 - 1.4. Define *commorientes*. (2)
 - 1.5. List two factors that are considered by the court when making an order for presumption of death. (2)
 - 1.6. Briefly compare a “natural person” and a “juristic person”. (2)
- [15]**

QUESTION TWO

Busi and her boyfriend Sam go on vacation to Cape Town. Whilst on vacation Busi goes missing. She was a healthy 25 year old with no medical conditions. Sam claims that when he woke up she was gone. Sam and Busi have been known to have a very tumultuous relationship. Answer the questions that follow.

- 2.1 Busi’s mom wants to apply for an order of presumption of death because they have searched the area but cannot find Busi. Advise Busi’s mom on which procedure will apply and why. (2)
 - 2.2 Compare the two different procedures for the application for presumption of death. (10)
 - 2.3 Assume that the family has found Busi’s body and want to donate her organs, name the purposes for which the body tissue may be used. (2)
 - 2.4 Name any one possible beneficiary of body tissue or organs. (1)
- [15]**

QUESTION THREE

Briefly explain and compare the legal status of a mentally ill person with the legal status of a prodigal. Also compare the legal status of a mentally ill person with the legal status of an infans and a major. Your answer must be in table format. **[10]**

QUESTION FOUR

Alice and Amy are identical twin sisters. Alice is dating Sihle. Sihle arrives at Alice’s house but unbeknown to him Amy answers the door. Sihle props himself down on one knee and proposes to Amy believing that she is Alice.

- 4.1 Does this amount to a valid engagement? Give a reason for your answer by referring to the legal requirements for concluding a valid engagement. (5)
 - 4.2 If Alice and Sihle are cousins can they conclude a valid engagement? Provide a reason for your answer. (3)
 - 4.3 Would there be a valid engagement if Sihle had dressed as a clown on the April Fool’s Day and claimed that the proposal was a joke? Explain briefly. (2)
 - 4.4. What types of engagement gifts can be given during an engagement? Explain the types, providing examples of each. (5)
- [15]**

QUESTION FIVE

Discuss the procedure to obtain a protection order in terms of the Domestic Violence Act 116 of 1998. Also explain what the term “domestic violence” means in terms of this act and what “relationships” are covered by the Domestic Violence Act. [15]

QUESTION SIX

What is the relevance of Family Mediation in South Africa? Discuss briefly, referring to the definition of mediation and family mediation; the advantages and disadvantages of family mediation as well as the differences between African mediation and Western-style mediation. [15]

TOTAL: 70
