



<b><u>FACULTY</u></b>	: Law
<b><u>DEPARTMENT</u></b>	: Private Law
<b><u>CAMPUS</u></b>	: APK
<b><u>MODULE</u></b>	: PER0000/LPF41YO LAW OF PERSONS AND THE FAMILY
<b><u>SEMESTER</u></b>	: First semester
<b><u>EXAM</u></b>	: Deferred semester test 2

<b><u>DATE</u></b>	: JULY 2019	<b><u>SESSION</u></b>	
<b><u>ASSESSOR(S)</u></b>	: Dr AE Boniface / Mrs W Rosenberg		
<b><u>MODERATOR</u></b>	: Prof MM Watney		
<b><u>DURATION</u></b>	: 2 hours	<b><u>MARKS</u></b>	: 50

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NUMBER OF PAGES: 3 PAGES (INCLUDING THIS PAGE)

INSTRUCTIONS:

1. Please write your surname, initials and student number on the answering paper.
2. Please answer all the questions on the answering paper.
3. The answering paper must be handed in alphabetically.
4. The question paper is handed in separately to the answering paper.
5. Good luck with the examination.

### **QUESTION ONE**

1.1. Who may approach the High Court for an order declaring a person a prodigal? (Your answer must not be longer than one sentence.) (1)

1.2. Who is regarded as a “major” in the eyes of the law? (1)

1.3. Briefly (in no more than one sentence) define the concept “juristic person” and provide an example of a juristic person. (2)

1.4. Define the term “Law of Persons”. (2)

1.5. “The matter of anatomical donations is provided for in great detail by the Human Tissue Act [65 of 1998]” Robinson *et al.* 40. Answer the following questions:

1.5.1. Explain briefly who may consent to the use of a body or tissue. (2)

1.5.2. For what main purposes may a body, or tissue from a body, be used? Name these purposes. (2)

### **QUESTION TWO**

Mrs. Xavier was pregnant with twins and goes into labour prematurely. One of the twins dies shortly after childbirth. The twin that died was still connected via the umbilical cord to her mother and the twin moved for a short time before dying. The second twin that was born screamed loudly when she was born. After cutting the umbilical cord of the second twin, she was placed in an incubator. The second twin survived. With reference to the set of facts, mention what the requirements are for birth for the purposes of the granting of legal subjectivity. Also explain whether the twins would have been deemed to be legal subjects and whether their births needed to be registered, give reasons for your answer. (10)

### **QUESTION THREE**

Mr. Dlamini married Miss Zinta. The wedding ceremony was held in Johannesburg at a beautiful lakeside venue. Mr. Dlamini lives and works in England and flew to South Africa for the wedding. Miss Zinta, after the wedding known as Mrs. Zinta-Dlamini, lived and worked in Pretoria prior to the wedding. Before their wedding Mr. Dlamini heard “voices” in his head telling him that he must wear purple shoes and socks on the day of the wedding and that after the wedding ceremony he must do ten cartwheels on the lawn in front of the wedding guests. Mr. Dlamini then complied with what the voices told him and wore the purple shoes and socks and did ten cartwheels on the day of the wedding. Mr. Dlamini has never been admitted to a

health care establishment for treatment for mental illness but has been seeing a psychiatrist as an outpatient for two years. Mr. Dlamini's friends describe him as outgoing and eccentric. Prior to the wedding the parties did not sign an antenuptial contract. Answer the following questions briefly:

3.1. The matrimonial property system of which country will be applicable to their marriage? In your answer pay particular attention to the domicile of the parties. (3)

3.2. Explain briefly what the test is for mental illness as defined by the South African courts. (4)

3.3. What is the onus of proof in cases relating to mental illness? Explain briefly. Also briefly state what would need to be proven in the case of Mr. Dlamini in order to prove that he was mentally ill at the time of the wedding ceremony and who bears the burden of proof in this instance. (Your answer should not be longer than eight sentences.) (8)

#### **QUESTION FOUR**

Compare and explain the legal status of a prodigal, a mentally ill person, an *infans*, a minor, a major and an insolvent. Your answer must be in the form of a table. (15)

**Total: 50**

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