



PROGRAM : NATIONAL DEGREE
BACC

SUBJECT : **INTRODUCTION TO LAW 100**

CODE : **INL 100**

DATE : SUPPLEMENTARY EXAMINATION
NOVEMBER 2018

DURATION : **16:00 - 18:00**

TOTAL MARKS : 100

EXAMINERS : MS M PILLAY AND MR G BOUWERS

MODERATOR : PROFESSOR DS DE VILLIERS

NUMBER OF PAGES : **5 (FIVE)** PAGES INCLUDING THE COVER PAGE

INSTRUCTIONS : WRITE LEGIBLY
NUMBER YOUR ANSWERS CAREFULLY

QUESTION 1

[6]

Explain the following terms:

- 1.1 *Mora debitoris*; (2)
- 1.2 Separate judgment; (2)
- 1.3 Voidable contract. (2)

QUESTION 2

[18]

Wendy, who lives in Johannesburg, needs to buy a new cell phone. She sees the following advertisement on Facebook on 24 September 2018: "Almost like-new Samsung S7 with original accessories. R7000. Serious buyers only! Call Leo on 072 555 5555". She immediately sends Leo a text message in which she indicates that she is willing to pay R4500 for the phone. Leo reads the message and replies that evening via WhatsApp. He informs Wendy that is willing to sell the phone for R5500. Wendy reads the message and replies the following morning on 25 September 2018 via an email. She agrees to pay R5500 for the phone. Even though Leo is seated at his desk at work, in Pretoria, when the email pops up on his computer screen, he only reads the message on 26 September 2018.

- 2.1 Who is the offeror and offeree in the above set of facts. Provide reasons for your answer. (4)
- 2.2 Fully discuss who may be described as the debtor and as the creditor in this contract of sale. (4)
- 2.3 With reference to the above facts, fully discuss where and when the valid contract is concluded. (5)
- 2.4 Assume that Wendy pays the purchase price. Leo delivers a cell phone to Wendy but it is not the make or model that was advertised on Facebook. In addition, the phones screen is cracked. Wendy refuses to accept the phone offered to her, and she wants to claim back her money. Leo approaches you for advice. He feels that he had performed in terms the contract. Advise Leo on whether or not Wendy may succeed with her claim. Discuss fully. (5)

QUESTION 3

[16]

Identify the type of clause below and provide a reason for your answer:

- 3.1 After months of searching, Mary finally finds the house of her dreams. She signs the offer to purchase, but it is subject to her obtaining a bond from ABC Bank. (4)
- 3.2 Kaybee rents a house for R4000 a month until she obtains her B. Com degree from the University of Johannesburg. (4)
- 3.3 Tony agrees in writing to buy his wife a diamond bracelet within two months of him winning the lottery jackpot. (4)
- 3.4 Jess rents out her house until the death of her father. (4)

QUESTION 4

[20]

Theresa was at the grocery store with her toddler one afternoon. While pushing her son in the shopping cart, he fell out and hit his head on the tiles. In a panic, Theresa rushed her unconscious son to the nearest hospital to receive emergency medical care. On her way to the hospital, she skipped a red traffic light, which caused another car to crash into a barrier. The passenger in the other car sustained major trauma and died a short while later. With regard to the above scenario, answer the following:

- 4.1 Theresa is arrested and charged with culpable homicide. The case is subsequently postponed to a later date for trial. Must Theresa remain in custody until the date of the trial? (Your answer should include the factors that will be taken into account in determining whether she should be kept in custody). (6)
- 4.2 During the investigation, it becomes known that Theresa's son would have succumbed to his injuries, had Theresa not rushed him to the hospital. What are the defences that excludes unlawfulness, and will Theresa be able to rely on any one of them? Discuss fully. (4)
- 4.3 You are a legal representative of the accused. While discussing the incident with you, Theresa appears to be apprehensive about disclosing certain facts to you. As her legal representative, you explain the principle of legal professional privilege. Briefly discuss three other forms of privilege. (6)
- 4.4 Theresa is subsequently convicted of the crime of culpable homicide. She is understandably distraught about the outcome of the case. Are there any options that may be available to a convicted person? (4)

QUESTION 5

[11]

Sisters, Ricki, Sam and Lisa are in the process of opening a hair salon. They approach you in order to seek advice on the most appropriate form that their business should take. With regard to the above scenario, answer the following questions:

- 5.1 You advise the parties that a partnership would probably be the best suited for the type of business they intend to embark on. However, you inform them that there are certain essentialia that they need to take into account. Provide a detailed discussion on this statement. (7)
- 5.2 The parties require you to draft a partnership agreement, which should incorporate all provisions that are generally found in a typical partnership agreement. What are 4 (four) common provisions that you would include? (4)

QUESTION 6

[9]

- 6.1 The procedure for establishing a company is outlined in the Companies Act 71 of 2008. The Companies Act distinguishes between incorporation, which is affected by the actions of the incorporators, and registration, which is affected by the Companies and Intellectual Property Commission (CIPC) as soon as practically possible after the act of incorporation has been perfected. In this regard, discuss:
 - 6.1.1 the process of incorporation; and (3)

6.1.2 the process of registration. (3)

6.2 What are 3 (three) features of a non-profit company? (3)

QUESTION 7 [9]

John wants to safeguard some of his assets for the future enjoyment of his children. As such, you advise him to cause a trust to be formed. In this regard, answer the following:

7.1 John asks you to advise him on the essential elements for the creation of a valid trust. (5)

7.2 What are the duties that are imposed on a trustee? (4)

QUESTION 8 [5]

The Constitutional Court is the only court capable of hearing certain matters. In which cases does the Constitutional Court enjoy exclusive jurisdiction?

QUESTION 9 [6]

Match the case in column A to the correct finding of the court OR set of facts in column B. (Just the number and letter e.g. (2: c))

Column A	Column B
1. <i>S v Makwanyane</i>	a. The court declared s 21(1)(a)(i) of the Drugs and Drug Trafficking Act 140 of 1992 unconstitutional.
2. <i>De Reuck v Director of Public Prosecutions</i>	b. Before this decision, the court could impose corporal punishment on juveniles.
3. <i>Christian Education of South Africa v Minister of Education</i>	c. A local authority evicted a group of squatters who settled on private land earmarked for low-cost housing.
4. <i>S v Williams</i>	d. The court declared the death penalty as a form of punishment to be unconstitutional.
5. <i>Government of RSA v Grootboom</i>	e. The court concluded that the relatively narrow infringement of expression and privacy is outweighed by the important legislative purposes served by s 27(1) of the Films and Publications Act 65 of 1996.
6. <i>S v Bhulwana</i>	f. The Constitutional Court found that s 10 of the South African Schools Act justifiably limited the right to freedom of religion.

TOTAL: [100]