



**PROGRAM** : NATIONAL DEGREE  
*BACC*

**SUBJECT** : **INTRODUCTION TO LAW 100**

**CODE** : **INL 100**

**DATE** : SUMMER EXAMINATION  
NOVEMBER 2017

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

**TOTAL MARKS** : 100

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**EXAMINERS** : MS M PILLAY AND MR G BOUWERS

**MODERATOR** : PROFESSOR DS DE VILLIERS

**NUMBER OF PAGES** : **4 (FOUR)** PAGES INCLUDING THE COVER PAGE

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**INSTRUCTIONS** : WRITE LEGIBLY  
NUMBER YOUR ANSWERS CAREFULLY

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**QUESTION 1**

**[23]**

Zara relocates from Cape Town on 1 May 2017 because she has just landed a job at a prestigious consulting firm in Johannesburg. She needs to purchase a reliable motor vehicle so that she can travel safely to work and to visit clients on behalf of her employer. She visits a second-hand car dealership situated in Auckland Park on 1 June 2017. As luck would have it, the owner, Jack, is the salesperson on duty. She informs Jack of her current situation and he shows her a beautiful black convertible with very low mileage priced at R500 000. He tells her that it has never been involved in any accidents and that it has been for all its services. Zara really loves the car but the price is too steep. She tells Jack that she will think about it. She goes home and later that evening texts Jack. She tells him that she is willing to pay R400 000 for the vehicle. Jack reads the sms but does not reply. Jack replies via email on 2 June 2017 and states that he is not interested in selling the car for that price. Zara visits the dealership on 3 June 2017 and begs Jack to sell the car to her for R425 000. Jack informs her that he will sell it for nothing less than R450 000. Zara screams with delight and is very happy with her purchase. She transfers the money immediately. They agree that delivery will take place on 5 June 2017.

- 1.1 Identify the legal object and subjective right in the above scenario and provide a reason for your answer. (3)
- 1.2 Explain where and when the above contract comes into being. (5)
- 1.3 Fully discuss who may be described as the debtor and as the creditor in this contract of sale. (4)
- 1.4 The contract is reduced to writing and the parties sign it on 3 June 2017.
  - 1.4.1 Jack's name is indicated incorrectly as Zack on the contract. Discuss the effect of this mistake on the validity of the contract. (3)
  - 1.4.2 Zara has heard that "contracts which have been reduced to writing may not be amended". Is this statement correct? Discuss fully. (3)
- 1.5 On 6 August 2017, while Zara is driving on the highway, the engine blows. This is as a direct result of the car never having been serviced. Zara is furious that Jack lied to her. She calls you in tears, and knowing that you study INL 100, asks for your advice. She does not want the car anymore and wants her money back. Advise Zara whether she is able to claim return of her money and on what grounds. Discuss fully. (5)

**QUESTION 2**

**[16]**

Eli and Lily have been dating for three years. Lily plans a surprise birthday party for Eli. She orders an ice-cream cake from a renowned bakery. The owner of the bakery, Kim, reassures Lily that the cake will be made according to her specifications: three layers of chocolate ice-cream topped with fresh cream and fresh strawberries. Lily insists that no nuts may be used in the preparation of the cake because Eli is allergic to nuts. They agree that the cake needs to be delivered by 17h00 on 30 October 2017, so that it is on the table when Eli arrives at 17h30. Kim insists that a 50% deposit of R500 must be paid, which Lily promptly does. The balance needs to be paid upon delivery.

- 2.1 The ice-cream cake is delivered on 30 October 2017 at 17h00. However, much to Lily's anger, the cake is completely different to what she had ordered. It is a peanut-butter ice-cream cake topped with fresh cream and almonds. She refuses to accept the cake. Kim is very upset. She thinks that Lily is being unreasonable. Kim feels that the cake that she delivered could have been eaten by the guests, and wants the remaining payment. Lily approaches you for advice. She refuses to pay the balance and wants to claim return of her deposit. Explain fully. (4)
- 2.2 Assume that Kim refuses to pay back the deposit. Lily decides to institute action. Identify and fully discuss the pleadings that Kim will have to draft in the matter. (4)
- 2.3 Assume that at the time of discussing the order and concluding the contract, Kim was very drunk, having earlier consumed a full bottle of vodka. Discuss the validity of contract in view of this fact. (3)
- 2.4 Assume that the ice-cream cake was made according to Lily's specifications. While on route to be delivered, a taxi driver skips a red traffic light and crashes into the bakery's vehicle. As a result of the collision, the cake is destroyed. Advise Lily whether she may be able to institute action against Kim for non-delivery. (5)

### **QUESTION 3**

**[15]**

One of your friends, Romelu, calls you one night to inform you that he has been arrested for allegedly assaulting his girlfriend with a bat. Knowing that he could not possibly have committed the crime, you agree to assist him with regard to the following:

- 3.1 Romelu is charged with assault with the intent to cause grievous bodily harm and is brought before court. The case is subsequently postponed to a later date for trial. Must Romelu remain in custody until the date of the trial? (Your answer should include the factors that will be taken into account in determining whether he should be kept in custody). (6)
- 3.2 Advise Romelu on the three elements of a crime. (3)
- 3.3 Romelu informs you that the prosecutor has offered him a plea agreement. Explain the possibility of a plea agreement, outlining the requirements, procedure and implications attached to a plea agreement. (6)

### **QUESTION 4**

**[11]**

Marcus, Zlatan and Anthony are always looking for new business opportunities. While driving to Anthony's house one day, Zlatan proposes that they establish a car wash in their neighbourhood. Marcus, who is knowledgeable about different forms of business, has suggested that the formation of a partnership would be best suited for the type of business they intend to embark on. With regard to the above scenario, answer the following:

- 4.1 Advise Marcus, Zlatan and Anthony on the essentialia of a partnership. (7)
- 4.2 Anthony would like clarity on the ways in which a partnership may be terminated. (4)

**QUESTION 5**

**[9]**

- 5.1 S 165 of the Companies Act, 71 of 2008 which provides a statutory derivative action, is a more certain alternative to the common-law remedy. In exercising the s 165 derivative action, fully discuss the five-step procedure that needs to be taken. (5)
- 5.2 A company enjoys perpetual succession. What does this term entail? (2)
- 5.3 Complete the following sentences:
- 5.3.1 A.....company is a profit company whose MOI prohibits the offering of its shares to the public and restricts the transferability of its shares. (1)
- 5.3.2 A.....company is a profit company that is either a listed public entity or is owned by a municipality. (1)

**QUESTION 6**

**[7]**

Eric, a father-to-be, wants to safeguard some of his assets for the future enjoyment of his unborn child. However, he does not have the time or desirability to manage those assets. As such, you advise him to cause a trust to be formed. In this regard, answer the following:

- 6.1 Eric asks you to advise him on the essentials in forming a valid trust. (5)
- 6.2 What does a testamentary trust entail? (1)
- 6.3 What does an *inter vivos* trust entail? (1)

**QUESTION 7**

**[6]**

In terms of the South African Constitution, both the National Assembly and the National Council of Provinces must in principle approve 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? (6)

**QUESTION 8**

**[4]**

The rights contained in the Bill of Rights cannot function absolutely. In this regard, what requirements that must be met before a right in the Bill of Rights may be limited? (Refer to the particular section in the Constitution) (4)

**QUESTION 9**

**[8]**

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) (8)

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>Christian Lawyers Association of South Africa v Minister of Health</i>	e. The court found that the government's decision to establish a transit camp to accommodate flood victims did not infringe the rights of residents under environmental and land legislation.
6. <i>Government of RSA v Grootboom</i>	f. The High Court found that a foetus could not be a bearer of the right to life.
7. <i>Minister of Public Works v Kayalami Ridge Environmental Association</i>	g. 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.
8. <i>S v Bhulwana</i>	h. The Constitutional Court found that s 10 of the South African Schools Act justifiably limited the right to freedom of religion.

**TOTAL:**

**[100]**