



PROGRAM : NATIONAL DEGREE: LLB; BCOM (Law); BA (Law)
SUBJECT : **LEGAL SKILLS**
CODE : LSK 41A0
DATE : JULY (SPECIAL) EXAM 2021
DURATION : 150 minutes
TOTAL MARKS : **50**

EXAMINERS : DR JH HALL
MS R CACHALIA

MODERATOR : PROF DS DE VILLIERS

NUMBER OF PAGES : The question paper consists of 8 pages (including this page) and a judgment which has been uploaded separately.

INSTRUCTIONS

1. This paper consists of **four** questions.
2. Answer all the questions in full.
3. This is an open-book examination. You may use your notes and other materials given out by the lecturer, **but you are not allowed to communicate or share information with other students in any circumstances**, or to copy and paste answers from the internet.

4. Do not copy and paste your lecture slides as answers. You need to show that you can interpret and apply the information using your own words.
5. Your answers will be tested for plagiarism.
6. You have 2 ½ hours to complete the exam. The exam starts at 08:00 and ends at 10:30.
7. Click the “save” button from time to time.
8. Answer the questions on Blackboard. Do not submit via e-mail unless you have been in contact with the lecturers and they have given you special permission.
9. With the Multiple Choice Questions choose your answer carefully. You will either get it right or wrong i.e. no marks will be given for partially correct answers.
10. You will be given **ONE** opportunity to submit.
11. Use your time wisely. Beware of spending too much time on the shorter questions and then failing to complete the long questions.
12. You are welcome to contact Dr Hall (ihall@uj.ac.za) or Ms Cachalia (raisac@uj.ac.za) or Ms Badenhorst (lawmentor@uj.ac.za) should you experience any issues while completing the exam.

QUESTION 1

- 1.1 The correct way to cite the Constitution is:
 - a. Constitution of the Republic of South Africa, 1996
 - b. Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)
 - c. Constitution of the Republic of South Africa Act 108 of 1996
 - d. Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)

[2]
- 1.2 Identify the primary sources of law in the list below. (You may choose more than one).
 - a. *S v Makwanyane and Another* 1995 (6) BCLR 665 (CC)

- b. Schwab and Davis *Shaping the Future of the Fourth Industrial Revolution* (2018)
- c. Canadian Charter of Rights and Freedoms
- d. National Environmental Management Act, 1998

[2]

1.3 Look at the following list of Acts. Select the answer which describes all the Acts that require all written documents to be written in plain language.

- a. The Short-term Insurance Act, 53 of 1998
- b. Choice on Termination of Pregnancy Act, 92 of 1996
- c. National Environmental Management: Biodiversity Act, 10 of 2004
- d. The Companies Act, 71 of 2008
- e. The South African Consumer Protection Act 68 of 2008

- a. a, b, d and e
- b. b, c and d
- c. c, d and e
- d. a, d and e
- e. all of the above

[2]

1.4 Drag and drop/ match the word in the right hand column which provides the best plain language alternative to the word.

commence	agree
prohibited	begin
consent	must not
demonstrate	barred
	initiate
	concur
	permitted
	show

[2]

1.5 Select the correct answer/s.

An Act can commence -

- a. when Parliament adopts the Bill
- b. on the day that the Act is assented to
- c. on the day that the Act is published
- d. on a date stated in the Act
- e. on a date stated in a Notice that is published in the *Government Gazette*

[2]

1.6 You are an attorney in practice. You are acting as an executor of the deceased estate of 'X', who leaves 50% of his estate to his wife 'W', and 25% of his estate to each of his two children 'A' and 'B'. His estate is worth R1 450 000 but he still owes R50 000 on his car and R200 000 on a bank loan. How much do W, A and B each get?

- a. W gets R600 000; A gets R300 000; B gets R300 000
- b. W gets R 850 000; A gets R425 000; B gets R425 000
- c. W gets R750 000; A gets R362 500; B gets R362 500
- d. W gets R650 000; A gets R325 000; B gets R325 000

[2]

1.7 A Mazda (driven by "A") and a BMW (driven by "B") collide on Joe Slovo drive. The accident was caused because A drove through a stop street. A's Mazda has barely a scratch on it, but repairs to B's BMW will cost R350 000. A is fully liable for those costs. B also received a hospital bill for R65 000 for the treatment of his injuries. The medical report shows that B was not wearing a seat belt at the time of accident, which made his injuries worse. If blame is apportioned at a percentage ratio of 70:30 for B's bodily injuries where A is 70% liable and B is 30% liable, calculate the amount that A and B are each liable to pay based on their respective degrees of fault.

- a. A pays R369 000; B pays R45 500
- b. A pays R395 500; B pays R19 500

- c. A pays R19 500; B pays R395 500
- d. A pays R350 000; B pays R65 000

[2]

- 1.8 During a political debate about the importance of vaccinating against Covid-19, Mr X says that *"I definitely won't be vaccinating, someone I know died a week after having XY Vaccine!"*

Which of the following logical fallacies has Mr X committed? (You may choose more than one)

- a. non-sequitur
- b. ad hominem
- c. hasty generalisation
- d. strawman
- e. circular reasoning
- f. none of the above

[2]

- 1.9 Which of the following statements is correct? (You may choose more than one).

A high standard of legal referencing is important because it:

- a. makes legal argument less convincing
- b. safeguards against plagiarism
- c. gives authoritative support to legal argument
- d. makes legal argument more convincing

[2]

- 1.10 In 2002, the Minister of Health lodged an appeal in the Constitutional Court against an earlier judgment ordering the government to rollout anti-retroviral treatment to HIV-positive pregnant mothers free of charge. The opposing party was the Treatment Action Campaign accompanied by various other parties. The judgment was the first of two judgments reported in the South African Law Reports. It appeared in volume 5 of the relevant law report at page 703.

Which reported citation of the case is correct?

- a. *Treatment Action Campaign v Minister of Health and Others* 2002 (5) ALL SA 703 (CC)
- b. *Minister of Health v Treatment Action Campaign* 2002 5 SA 703 (CC)
- c. *Minister of Health v Treatment Action Campaign* 2002 (5) BCLR 703 (CC)
- d. *Minister of Health v Treatment Action Campaign and Others* (CCT9/02) [2002] ZACC 16 (5 July 2002)

[2]

[20]

QUESTION 2

In a litigation process, the appellant's lawyer requires Rudie to describe certain events which are relevant to the case. You are a candidate attorney at the firm representing the appellant. Draft an affidavit on behalf of Rudie describing the events based on the facts in the paragraphs below.

The respondent and his wife live at 8 Cyprus Street, Grahamstown. There was a front garden at the house, separated from the pavement by a low wall in which there was a pedestrian gate as well as a motorised gate. The height of the wall and gates would not prevent a dog from getting into the street from the front garden. The motorised gate was always left open. Access to the back garden of the house could only be obtained by means of a side gate in the fence between the house and the garage, which was situated on the southern boundary of respondent's property. This is referred to as the side gate.

On the northern side of the house access was closed off by a fence in which there had been a gate but which was wired up. It is not in dispute that a dog in the respondent's back garden could only gain access to the street through the side gate next to the garage, or through the house. The respondent is the owner of a bulldog puppy, aged two months and three weeks. On the day in question, while the respondent was at work, the respondent's wife went to visit the owner of 7 Cyprus Street, which is situated

diagonally across the road from 8 Cyprus Street. She says that she left the dog in the backyard and that the front door and the side gate were both closed. She has no knowledge as to how the dog managed to get into the street. When she returned to the house the dog was back in the backyard. The appellant's son, Lotie Muller, then aged 16, and some friends were on their motorcycles travelling along Cyprus Street from north to south.

Lotie was wearing a crash helmet which obstructed her vision to either side. She did not see the dog until the moment of impact. One of Lotie's friends, Rudi Muller, was riding behind Lotie. Rudi is a 17 year old male and first year law student. He resides at 10 Cyprus Street and saw the dog playing on the front lawn of 7 Cyprus Street. The dog then moved on to the pavement and then suddenly ran at a faster pace diagonally across the street towards 8 Cyprus Street. Rudi yelled at Lotie to look out but it was too late to avoid the collision. The dog was knocked over but got up and ran on to the front stoep of 8 Cyprus Street where it was yelping in pain. The collision caused Lotie to lose control and she and the motorcycle were flung to the ground.

[10]

QUESTION 3

Develop an argument that follows the **deductive form of a syllogism** based on the following scenario (situation). Your answer must include a major premise, a minor premise and a conclusion.

Section 34 of the Prevention and Combatting of Corrupt Activities Act, 2004 places a duty on all public officials who are senior managers of a 'public body' to report corruption that they know about or suspect, to a police official. Not reporting corruption is an offence.

Jane Dube is the head of procurement at South Africa's national airline which is a public body. She is accidentally copied in on an e-mail between the Chief Financial Officer, Zakes Mashaba, and a controversial business woman, thanking her for her

'generous gift' and informing her that her company has been granted a lucrative 10 year tender for catering at the airline. Ms Dube does not tell anyone and keeps this information to herself.

[5]

QUESTION 4

Read the judgment in *Magidiwana and Others v President of the Republic of South Africa and Others* [2013] ZACC 27; 2013 (11) BCLR 1251 (CC) which has been uploaded separately and answer the following questions.

4.1. Which party is the *amicus curiae*? What role does such a party usually play in litigation proceedings?

[3]

4.2. The *Magidiwana* litigation raises two separate issues. What are each of those issues?

[2]

4.3. What was the key legal issue in the *court a quo*? What did Raulinga J find in respect of this issue?

[2]

4.4. What was the Constitutional Court's *ratio decidendi* in respect of the interim relief issue? In your answer you should refer to the relevant legal principles and judicial precedents relied on by the court.

[5]

4.5. According to the judgment, does the Constitution recognise an express right to legal representation at state expense for persons appearing before commissions of inquiry? Explain your answer.

[3]

[15]

TOTAL: 50 MARKS