



**PROGRAM** : NATIONAL DEGREE: LLB; BCOM (Law); BA (Law)  
**SUBJECT** : **LEGAL SKILLS**  
**CODE** : LSK 41A0  
**DATE** : WINTER EXAMINATION (June 2019)  
**DURATION** : 180 minutes  
**TOTAL MARKS** : 80

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**EXAMINER** : DR JH HALL  
**MODERATOR** : PROF DS DE VILLIERS

**NUMBER OF PAGES** : The question paper consists of 5 pages including this cover page as well as a copy of an Act and judgment.

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### **INSTRUCTIONS**

1. Answer all the questions.
2. Write clearly and legibly.
3. Number your answers carefully and clearly i.e. place the number of the question in the margin or, if you put it in the text, make sure that it is underlined.
4. Leave a space between answers.

### **QUESTION 1**

Read Act 83 of 1993 which is attached at the end of this paper and answer the following questions.

- 1.1 What is the short title of the Act? (1)
- 1.2 What is the purpose of the preamble to the Act? (2)
- 1.3 What is the definition of "emission"? Why is it important to know how an Act defines a term? (2)
- 1.4 Solly, a 10 year old, asks to buy a pipe for his grandfather at a cafe. The cafe owner, Oupa, sells the pipe to Solly, but without any tobacco. Has Oupa committed an offence? Substantiate your answer. (3)
- 1.5 May the Minister of Health prohibit smoking in the following places:  
(a) in taxis operated by private persons?  
(b) at a taxi rank?  
Substantiate your answer. (2x2 = 4)
- 1.6 A large cigarette company, Ohio, bought a 'box' for spectators at Loftus Versveld in 1994. A sign was attached to the outside of the door, in Ohio's colours, with the word 'Ohio' written on it.
  - 1.6.1 Discuss whether the company has committed an offence? (2)
  - 1.6.2 If an offence was committed, what could the possible punishment be? (2)
- 1.7 A bar at O. R. International Airport sells alcohol and light meals. There is a cigarette-vending machine inside the bar. At the entrance of the bar a big sign is displayed, which reads; 'Alcohol is sold only to persons above the age of 18 years, and cigarettes to persons above the age of 16'. Nosipho, a 15 years old, enters the bar and orders a light meal. The waitress serving Nosipho sees her approaching the vending machine. Nosipho buys a packet of cigarettes, puts it in her pocket, but does not smoke in the bar. Did the waitress commit an offence? Did anyone else commit an offence? Substantiate your answer. (4)
- 1.8 Cite the highlighted provision below in numbers and in words. (4)

**6. Regulations**

(1) The Minister may make regulations regarding—

(a) anything that must or may be prescribed in terms of this Act;

*(Section 6(1)(a) amended by section 9(b) of Act 157 of 1993)*

*(Section 6(1)(a) substituted by section 4(a) of Act 23 of 2007)*

(b) the signs in respect of tobacco products and the information that must be displayed at points of sale and on vending machines, including—

(i) health warnings that must appear on the signs;

(ii) size and format of the signs;

(iii) location of the signs; and

**[24]**

**QUESTION 2**

Read the copy of *FS v JJ and Another* at the end of this document and answer the following questions:

- 2.1. Why are the parties' initials instead of full names used in the citation of the case? (1)
- 2.2. Two of the judges in the case are – Lewis JA and Pillay AJA. Explain what 'JA' and 'AJA' mean. (2)
- 2.3. Which court was the court *a quo*? (1)
- 2.4. The judgement says that Lewis JA handed down the judgment, with the other judges 'concurring'.
  - 2.4.1. What does 'concurring' mean?
  - 2.4.2. What does a separate judgment mean?
  - 2.4.3. What does a minority judgment mean? (1x3 = 3)
- 2.5. Section 20 of the Children's Act, 2005 applies retrospectively because section 21(4) says that section 20 applies 'regardless of whether the child was born before or after the commencement of the Act'. What does 'retrospective'

mean? Is it usual for an Act to apply retrospectively? Explain your answer.

(3)

.../4

2.6. Paragraph [44] refers to a Constitutional Court judgment. Cite the judgment and discuss its status in the context of *stare decisis*.

(6)

2.7. List two primary sources of law that are mentioned in paragraph 52. (2)

**[18]**

### **QUESTION 3**

3.1. Explain why plain language is important. (4)

3.2. Identify two Acts that require documents to be written in plain language. (2)

3.3. Your client is the owner of a factory. They want to understand what their obligations as an employer are in terms of Act 83 of 1993. Write a summary of the requirements in section 2(4), (5) and (6) of the Act for your client in plain language. (10)

**[16]**

### **QUESTION 4**

Show all your calculations in your answer.

4.1 You are the liquidator of an insolvent estate. You arrange for a number of assets in the estate to be sold. The assets are sold for R34 500, including VAT of 15%. What is the VAT amount of the insolvent estate?

(5)

4.2 A, B and C are business partners in a law firm. They divide their profits on a *pro rata* basis of 1:3:4. The profits amount to R7 000. Calculate the profit that each partner will receive.

(5)

**[10]**

.../5

**QUESTION 5**

Read the paragraph below and answer the questions which follow.

Your client is June Swart, a 20 year old actress, who lives at 12 Main Road, Melville. She tells you that on Monday 27 April 2019 she was walking home after celebrating Freedom Day at a friend's house at 18:30. She noticed a group of people crossing the road towards her. One of the people she recognised as a fellow student, Jo Abraham. Jo grabbed June's collar and asked where she was going. June tried to answer, but before she had finished replying, Jo slapped her across the face. One of the men in the group then assaulted June by punching her in the stomach and kicking her when she fell down. The group called him Themba and he had a tattoo on his cheek of a scorpion. The rest of the group – seven in total – also started hitting and kicking June. She woke up in Milpark Hospital with three broken ribs and severe bruises on her body. He stayed in hospital for a week under the care of Dr Paceman. June has no idea why the group assaulted her.

5.1. Draft an affidavit on behalf of June. (10)

5.2. Can you commission the oath for June? Motivate your answer. (2)

**[12]****TOTAL MARKS: [80]**