

QUESTION 1:

1.1. The Kwazulu-Natal Division, Pietermaritzburg, hands down a judgment setting a new and important precedent in family law. Which of the following courts is bound by this new precedent? (You may select more than one).

- a. The Western Cape Division, Cape Town
- b. The Kwazulu-Natal Local Division, Durban
- c. The Eastern Cape Local Division, Mthatha
- d. The Supreme Court of Appeal

[2]

1.2. Which of the following statements relating to *obiter dicta* is **correct**? (You may choose more than one).

- a. The majority judgment never contains an *obiter dictum*
- b. The minority judgment will always have an *obiter dictum*
- c. The majority judgment always contains both a *ratio decidendi* and an *obiter dictum*
- d. The majority judgment will sometimes contain an *obiter dictum*

[2]

1.3 Give a plain language alternative word for the following:

- 1.3.1 commence
- 1.3.2 consent
- 1.3.3 shall
- 1.3.4 demonstrate

[2]

1.4 Look at the following list of Acts. Select the answer below the list of Acts which correctly identifies all the Acts that require 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

- i. a, b, d and e
- ii. b, c and d
- iii. c, d and e
- iv. a, d and e
- v. all of the above

[2]

1.5 Which of the following citations for an academic journal article is correct based on the *TSAR* referencing guideline?

- a. Etienne Mureinik "A bridge to where? Introducing the interim Bill of Rights" 1994 (10) *South African Journal on Human Rights* 31
- b. Mureink "A Bridge to Where? Introducing the Interim Bill of Rights" 1994 (10) *SAJHR* 31
- c. E Mureinik "A bridge to where? Introducing the interim bill of rights" 1994 (10) *SAJHR* 31
- d. E Mureinik *A bridge to where? Introducing the interim bill of rights* 1994 (10) *SAJHR* 31

[2]

[10]

QUESTION 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]

[5]

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.

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

Xolani Dube is the head of procurement at the National Development Agency, which is a public body. He receives an email from the Chief Financial Officer, Zakes Mashaba, stating that the Agency must award a tender to a controversial businesswoman who has "friends in high places" and that this instruction comes from "the top". Mr Dube does not tell anyone and keeps this information to himself.

[5]

[5]

QUESTION 4:

Draft an affidavit for court proceedings on behalf of June based on the facts in the paragraph below. You may make up technical details (not facts) that are necessary to complete the affidavit.

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. She recognised one of the people as a fellow student, Jo Abraham. Jo grabbed June's collar and asked where she was going. June tried to answer, but Jo slapped her across the face before she had finished replying. 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 of a scorpion on his cheek. 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. She stayed in the hospital for a week under the care of Dr Paceman, who told June that he sees this kind of violence when people are using drugs and that he thought this might have been the case in June's situation. June has no idea why the group assaulted her.

[10]

[10]

QUESTION 5:

Read the Domestic Violence Act, 1998 and answer the questions below. NOTE: You must reference the relevant sections in the Act when answering the questions.

5.1 The Act was published on 2 December 1998. Did it come into effect on the same date? Explain.

[2]

5.2 What is the definition of "arm"? Why is it important to know how an Act defines a term?

[2]

5.3 Read the following scenario and answer the questions below. Reference the Act in your answer.

Ms Kate Moloi and Ms Tasmyn Peters are two women who have been living together in a flat in Melville, Johannesburg, since 2015. They are currently engaged. Tasmyn is well-off and has agreed to pay the rent. Kate is currently unemployed. Tasmyn's father dies and she undergoes a dramatic personality change. One evening, while Kate is out, Tasmyn destroys all of Kate's clothes. When Kate returns, Tasmyn tells her that she is no longer prepared to pay the rent. She also calls Kate a 'loser' and a 'useless human being'.

5.3.1 Does Kate and Tasmyn's relationship constitute a "domestic relationship" as defined in the Act? Motivate your answer.

[2]

5.3.2 Do Tasmyn's actions qualify as "domestic violence" in terms of the Act? Motivate your answer.

[2]

5.3.3 Kate wants to apply to court for a protection order but cannot afford a lawyer. You are the clerk of the court. Inform Kate what her rights are in terms of the Act.

[3]

5.3.4 List any two powers of the court in respect of a protection order.

[2]

5.4 Cite the highlighted provision below in numbers and in words.

[2]

18. Application of Act by prosecuting authority and members of South African Police Service

...

(5)

(a) The National Director of Public Prosecutions must submit any prosecution policy and policy directives determined or issued in terms of subsection (2) to Parliament, and the first policy and directives so determined or issued, must be submitted to Parliament within six months of the commencement of this Act.

(b) The National Commissioner of the South African Police Service must submit any national instructions issued in terms of subsection (3) to Parliament, and the first instructions so issued, must be submitted to Parliament within six months of the commencement of this Act.

(c) The Secretariat must, every six months, submit a report to Parliament regarding the number and particulars of matters reported to it in terms of subsection (4)(a), and setting out the recommendations made in respect of such matters.

(Section 18(5)(c) substituted by section 36(1) of Act 1 of 2011)

(d) The National Commissioner of the South African Police Service must, every six months, submit a report to Parliament regarding -

(i) the number and particulars of complaints received against its members in respect of any failure contemplated in subsection (4)(a);

(ii) the disciplinary proceedings instituted as a result thereof and the decisions which emanated from such proceedings; and

[15]

QUESTION 6:

You are a tutor. Kabelo, a first year Legal Skills student, consults with you and tells you that he does not understand what sources of law are or why the lecturer says they are so important to understand.

What would you tell Kabelo?

[5]

[5]

TOTAL MARKS: [50]