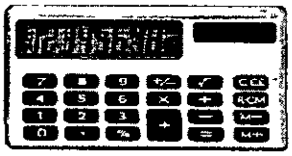
UNIVERSITY EXAMINATIONS



UNIVERSITEITSEKSAMENS

UNISA university of south africa

SCL1501

October/November 2015
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SKILLS COURSE FOR LAW STUDENTS
VAARDIGHEDE VIR REGSTUDENTE

Duration 2 Hours
Tydsduur 2 Uur

100 Marks
100 Punte

EXAMINERS / EKSAMINATORE :
FIRST / EERSTE MR/MNR KB MOROTA
SECOND / TWEEDE MR/MNR MD LETSOALO

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This paper consists of 22 pages

Hierdie vraestel bestaan uit 22 bladsye.

INSTRUCTIONS·

1 Answer ALL the questions
2 Read the questions VERY CAREFULLY before answering them
3 Use a BLUE or a BLACK PEN when you answer the questions on the EXAMINATION PAPER PLEASE DO NOT USE A PENCIL WHEN YOU ANSWER THE QUESTIONS

INSTRUKSIES:

1 Beantwoord AL die vrae.
2 Lees die vrae BAIE AANDAGTIG deur voordat jy dit beantwoord.
3 Gebruik 'n BLOU of 'n SWART PEN wanneer jy die vrae op die EKSAMENVRAESTEL beantwoord. MOET ASSEBLIEF NIE 'N POTLOOD GEBRUIK WANNEER JY DIE VRAEBEANTWOORD NIE.

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THIS PAPER CONSISTS OF **FIVE** SECTIONS

HIERDIE VRAESTEL BESTAAN UIT VYF AFDELINGS:

ALL **FIVE** SECTIONS ARE COMPULSORY AND YOUR ANSWERS TO THE QUESTIONS MUST BE WRITTEN DIRECTLY ON THE EXAMINATION PAPER

AL VYF DIE AFDELINGS IS VERPLIGTEND EN JOU ANTWOORDE OP DIE VRAE MOET DIREK OP DIE VRAESTEL GESKRYF WORD.

SECTION 1	LAW AND STUDY SKILLS 25 MARKS
AFDELING 1:	**REGS- EN STUDIEVAARDIGHEDE: 25 PUNTE**
SECTION 2	NUMERIC SKILLS 20 MARKS
AFDELING 2:	**REKENVAARDIGHEDE: 20 PUNTE**
SECTION 3	COMMUNICATION / LITIGATIONSKILLS 15 MARKS
AFDELING 3:	**KOMMUNIKASIE- /LITIGASIEVAARDIGHEDE: 15 PUNTE**
SECTION 4	LEGAL ACTORS / RESEARCH SKILLS 25 MARKS
AFDELING 4:	**REGSPERSONE / NAVORSINGSVAARDIGHEDE: 25 PUNTE**
SECTION 5	READING SKILLS 15 MARKS
AFDELING 5:	**LEESVAARDIGHEDE: 15 PUNTE**

SECTION 1
AFDELING 1

Answer ALL the questions Your answer to the questions in this section must be written DIRECTLY on the examination paper in the space provided
Beantwoord AL die vrae. Skryf jou antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte wat daarvoor toegelaat is.

QUESTION 1 / VRAAG 1

1 1 Explain the notion of "social contract" in full detail (5)
1.1 Verduidelik die konsep "sosiale kontrak" volledig. (5)

1 2 *Why is "praxis" relevant to law students? Explain fully* (5)

1.2 Waarom is "praxis" relevant vir regstudente? Verduidelik volledig. (5)

1 3 "The state, through the courts, will charge and try that person (prosecute) on behalf of the wider society or community If that individual is found to have broken the law he will be punished according to the law"

1.3 "Die staat sal, deur middel van die howe, die persoon aankla en verhoor (vervolg) namens die breër gemeenskap of samelewing. Indien bevind word dat die individu die reg oortree het, sal hy volgens die regsreëls gestraf word".

(i) Mention at least four (4) forms of punishment (4)

(i) Noem ten minste vier (4) vorme van straf. (4)

QUESTION 2 / VRAAG 2

2 1 Explain why it is generally said that extrinsic motivation is weaker than intrinsic motivation Use your own examples (5)

2.1 Verduidelik waarom daar oor die algemeen gesê word dat ekstrinsieke motivering swakker as intrinsieke motivering is. Gebruik jou eie voorbeelde. (5)

2 2 What skills are required for studying? (2)
2.2 Watter vaardighede word daar vir studie vereis? (2)

"For a long time learning has been confused with the mere absorption of information or memorisation "

2 3 Explain the notion of "banking education" in relation to the above excerpt (4)
2.3 Verduidelik die idee van "banking education" met verwysing na bostaande uittreksel. (4)

TOTAL FOR SECTION 1 (25)
TOTAAL VIR AFDELING 1: (25)

SECTION 2
AFDELING 2

QUESTION 1 / VRAAG 1

1 1 Explain why bad numeric skills will disadvantage a lawyer in practice (3)
1.1 Verduidelik waarom swak rekenvaardighede in die praktyk 'n regspraktisyn sal benadeel. (3)

1 2 Mr Franz Malema is a successful lawyer in Tzaneen, a great town in the Limpopo Province of South Africa He has to go to New York in the USA to see a client He has R25 000,00 allocated to him by his law firm, Malema Attorneys, to use during his visit there How many dollars will Malema have if the exchange rate is R9,50 = $1 (US Dollar)? Give a detailed calculation. (3)
1.2 Mnr Franz Malema is 'n suksesvolle prokureur in Tzaneen, 'n dorp in Limpopo provinsie in Suid-Afrika. Hy moet na New York in die VSA gaan om 'n kliënt te sien. Sy firma, Malema Attorneys, het 'n bedrag van R25 000,00 aan hom toegeken vir gebruik tydens sy besoek daar. Hoeveel dollar sal Malema hê as die wisselkoers R9.50 = $1 (Amerikaanse dollar) is? Gee 'n gedetailleerde berekening. (3)

1 3 A Polo Classic and 330d BMW collide at an intersection Gardee, the owner-driver of the Polo was 15% negligent Nyiko, the owner-driver of the BMW was 85% negligent The damage to the Polo is estimated at R30 000 It is uneconomical to repair the BMW The pre-accident value of the BMW was 280 000 The salvage value of the wreck is R70 000 Who must pay who, and what amount of damages must he pay? (4)

1.3 'n Polo Classic bots met 'n *330d BMW* by 'n *verkeerskruising*. Gardee, die eienaar–bestuurder van die Polo, was 15% nalatig. Nyiko, die eienaar-bestuurder van die BMW was 85% nalatig. Die skade aan die Polo beloop R30 000. Dit is onekonomies om die BMW te herstel. Die voorongeluks-waarde van die BMW was R280 000. Die wrak is R70 000 werd. Watter eienaar-bestuurder moet aan watter eienaar skade-vergoeding betaal en wat moet die skadevergoedingsbedrag wees? (4)

QUESTION 2 / VRAAG 2

Pretend you are a successful lawyer You have agreed with your client that you will send him a detailed account every month In your negotiations you have decided the following will be applicable·

- R25 for every letter received
- R30 for every letter written
- R550 for a summons
- R30 per page or part thereof for an affidavit
- R35 per 10 minutes or part thereof for telephonic consultation
- R450 per half an hour or part thereof for a consultation
- Stamps R2,80 VAT excl

In the preceding month you did the following for your client

(1) You received 3 letters and wrote and posted 8
(2) You compiled a summons
(3) You compiled and affidavit of 8 and ¼ pages
(4) You instructed an advocate to write a document concerning the case The Advocate invoiced you for R1 550,00 excluding VAT
(5) You consulted with the client for 66 minutes
(6) You consulted 4 times telephonically, once for 18 minutes, once for 21 minutes and twice for 11 minutes each

VAT is 14% for this exercise

Write the detailed account (10)

Veronderstel dat jy 'n suksesvolle prokureur is. Jy het met jou kliënt ooreengekom dat jy maandeliks 'n gedetaileerde rekening aan hom sal stuur. Tydens die onderhandelings het julle besluit dat die volgende sal geld:

- **R25 vir elke brief wat ontvang word**
- **R30 vir elke brief wat geskryf word**
- **R550 vir 'n dagvaarding**

- **R30 per bladsy of gedeelte van 'n bladsy vir 'n verklaring**
- ***R35 per 10 minute of gedeelte daarvan vir telefoniese konsultasies***
- **R450 per halfuur of gedeelte daarvan vir 'n konsultasie**
- **Seëls teen R2,70 met BTW uitgesluit**

In die voorafgaande maand het jy die volgende vir jou kliënt gedoen:

(1) Jy het 3 briewe ontvang en 8 gepos
(2) Jy het 'n dagvaardiging saamgestel
(3) Jy het 'n verklaring van 8 en 'n ¼ blasye opgestel
(4) Jy het 'n advokaat opdrag gegee om 'n dokument oor die saak op te stel. Die advokaat het 'n rekening aan jou gelewer vir R1 550,00 met BTW uitgesluit
(5) Jy het die kliënt vir 66 minute gekonsulteer
(6) Jy het 4 keer telefonies gekonsulteer. *Die konsultasies het onderskeidelik* 18,21 en twee keer 11 minute elk geduur

BTW vir hierdie oefening is 14%

Skryf die gedetailleerde rekening neer. (10)

TOTAL FOR SECTION 2: (20)
TOTAAL VIR AFDELING 2: (20)

SECTION 3
AFDELING 3

QUESTION 1 / VRAAG 1

1 1 Is there a drfference between an attomey and a paralegal? Elaborate (5)
1.1 Is daar 'n verskil tussen 'n prokureur en pararegslui? Brei uit. (5)

1 2 Why is it said that legal practitioners act as proxies in the legal system? (3)

1.2 Waarom kan daar gesê word dat regspraktisyns as gevolg van volmag in die regsisteem optree? (3)

QUESTION 2 / VRAAG 2

"Public legal practitioners are legal practitioners who are employed by the state, and invariably serve as the counterparts of the private legal practitioners."
"Staatregspraktisyns is regspraktisyns wat werknemers van die staat is en wat onvermydelik die teenkant is van die private regspraktisyns."

2.1 Differentiate between (i) state attorney and (ii) state legal advisors. **(3)**
2.1 Onderskei tussen (i) staatsprokureurs en (ii) regsadviseurs van die staat. (3)

2.2 State why it is said that the power to institute criminal proceedings on behalf of the state rests with the National Director of Public Prosecution (NDPP) (4)
2.2 Verduidelik hoekom daar gesê word dat die mag om strafsake namens die staat in te stel by die Nasionale Direkteur van Openbare Vervolging berus (NDOV). (4)

TOTAL FOR SECTION 3: 15)
TOTAAL VIR AFDELING 3: (15)

SECTION 4
AFDELING 4

QUESTION 1 / VRAAG 1

1 1 With the help of your own example, discuss the notion of *argumentum ad hominem* as a form of irrelevance in argument or logic Say how this aspect is important for legal practitioners (3)

1.1 Met behulp van jou eie voorbeeld, bespreek die konsep *argumentum ad hominem* as irrelevant tot redenasie en logika. Verduidelik hoe hierdie aspek belangrik is vir regspraktisyns. (3)

1 2 With your own examples or illustrations, differentiate between deductive and inductive reasoning (5)

1.2 Deur van jou eie voordeelde gebruik te maak, onderskei tussen deduktiewe en induktiewe *redenering*. (5)

QUESTION 2 / VRAAG 2

Read the following text in order to answer the questions in this section
Lees die onderstaande gedeelte ten einde die vrae in hierdie afdeling te beantwoord.

Mauba and Mhlophe are the owners of Gogo-Phenyoga Pub at Jane Furse township in Sekhukhune They sell alcoholic beverages and roasted meat (braai) from 10h00 to 23h00 on weekends and from 09h 00 to 02h 00 on weekends Hundreds of the township residents, including those from the surrounding villages of Phokwane, Ga-moloi, Glen Cowie, Madibong, Mamone, Ga-Moretsele and Marishane spend most of their time at the pub It is also reported that scores of school-going youth from local schools such as Lengamola, Legaletlwana, Rebule are frequently seen at awkward hours drinking there Many parents are said to have complained to the local government authorities that the existence of the Gogo-Phenyoga Pub in the township has drastically affected the performance of the learners at the local schools However, Mauba and Mhlophe have consistently rejected these claims Recently, a fight broke out between two young men which resulted in the death of one of the patrons and a serious injury to a 17-year-old girl, Sesfikile, who was described as one f the regular faces at the pub It is alleged that the two men had been fighting over the injured girl The girl's father, Paepae Kadijela, confronted the pub owners about the incident, accusing them of encouraging "under-age" youth to drink liquor The argument resulted in a physical scuffle involving Paepae, Mauba

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pub owners about the incident, accusing them of encouraging "under-age" youth to drink liquor The argument resulted in a physical scuffle involving Paepae, Mauba and Mhlophe This led to Mhlophe suffering a severe cut across his face and bruises on his hands It is said that had it not been for the intervention of one of the vendors near the pub, known to his colleagues as Tsutsuma, the situation would have been worse

Mauba and Mhlophe is die eienaars van Gogo-Phenyoga Pub in die Jane Furse township woongebied in Tzaneen. Hulle verkoop alkoholiese drank en braaivleis weeksdae vanaf 10h00 tot 23h00. Honderde inwoners van die woongebied asook inwoners van die omliggende woongebiede van Phokwane, Ga-moloi, Glen Cowie, Madibong, Mamone, Ga-Moretsele en Marishane spandeer meeste van hul tyd in die kroeg. Daar is berig dat daar gereeld gesien word dat talle skoolgaande kinders van plaaslike skole soos Lengamola, Legaletlwana en Rebule daar drink. Baie ouers het al by die plaaslike owerhede gekla dat die Gogo-Phenyoga pub in die woongebied die kinders se prestasies drasties laat agteruitgaan het. Mauba en Mhlophe het egter die klagtes deurgaans verwerp.'n Geveg tussen twee jong manne het onlangs die dood van een van die klante veroorsaak en gelei tot die ernstige besering van 'n 17-jarige meisie, Sesfikile, wat gereeld by die kroeg te sien was. Daar is beweer dat die mans oor die meisie geveg het. Die meisie se pa, Paepae Kadijela, het die eienaars van die kroeg oor die insident gekonfronteer en hulle beskuldig dat hulle minderjarige jongmense aanmoedig om alkohol te gebruik. Die argument het tot 'n fisiese konfrontasie tussen Paepae, Mauba en Mhlophe gelei. Die gevolg was dat Mhlophe 'n ernstige snywond aan sy gesig opgedoen het en dat sy hande gekneus is. Dit blyk dat indien Tsutsuma, een van die verkopers in die omgewing, nie ingegryp het nie, die situasie veel erger sou gewees het.

Paepae Kadijela has come to see you (as a legal practitioner) regarding the confrontation he had with the pub owners He is concerned that the matter will ultimately be brought to a court of law, and he thus wants you to act on his behalf

Paepae Kadijela het u (as regspraktisyn) kom reedpleeg oor die konfrontasie wat hy met die eienaars van die kroeg gehad het. Hy is bekommerd dat die saak by die hof sal eindig en wil u dienste as regsverteenwoordiger hê.

2 1 Explain briefly how you will go about obtaining essential information from him to enable you to work on the case (4)

2.1 Verduidelik kortliks hoe u te werk sal gaan om die noodsaaklike inligting van hom te bekom om sy saak te hanteer. (4)

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2 2 State at least six aspects that you will take note of when you meet Paepae for your first consultation with him (3)

2.2 Noem minstens ses aspekte wat u in aanmerking sal neem wanneer u en Paepae vir die eerste konsulteer. (3)

2 3 The matter is finally brought to the Nebo Magistrate court in Phokwane because Mhlophe has laid charges with the police against Paepae Now draft the following

2.3 Die saak word uiteindelik voor die Nebo Landdroshof in Phokwane gebring omdat Mhlophe 'n klag teen Paepae by die polisie gelê het. Stel nou die volgende op:

(a) Your comprehensive opening address (3)

(a) U volledige openingsrede. (3)

(b) Two questions that you may ask your client in court to enable him to give the court an overview of the matter (2)

(b) Twee vrae wat u aan u kliënt kan stel om hom in staat te stel om die hof 'n oorsig oor die gebeure te gee. (2)

(c) Your Prayers (5)

(c) U bedes (5)

TOTAL FOR SECTION 4: (25)
TOTAAL VIR AFDELING 4: (25)

SECTION 5
AFDELING 5

QUESTION 1 / VRAAG 1

1.1 Explain the system of precedent in relation to the hierarchy of courts (3)
1.1 Verduidelik die presedentestelsel met verwysing na die hiërargie van die howe. (3)

1 2 Explain the phrase "*ratio decidendi*" and say how it relates to precedent system (2)

1.2 Verduidelik die frase "*ratio decidendi*" en verduidelik hoe dit verband hou met die presedenteleer stelsel. (2)

1.3 Unravel the following citation to illustrate the various components of a case *S v Makua* 1993 (1) SACR 160 (T) **(3)**

1.3 Ontrafel die volgende verwysing om die verskillende elemente van 'n saak te verduidelik: *S v Makua* 1993 (1) SACR 160 (T). (3)

QUESTION 2 / VRAAG 2

2.1 What do you understand by the term "litigation"? (3)
2.1 Wat verstaan u onder die begrip "litigasie"? (3)

2 2 Explain the following component of an Act of Parliament
2.2 Verduidelik die volgende aspekte van 'n Parlementswet:
(i) Long title (2)
(i) Lang titel (2)

(ii) Preamble (2)
(ii) Aanhef **(2)**

TOTAL FOR SECTION 5 (15)
TOTAAL VIR AFDELING 5: (15)

TOTAL FOR THIS PAPER [100]
TOTAAL VIR HIERDIE VRAESTEL: [100]

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