

STUDY SKILLS 4 LAW STUDENTS EXAM NOTES

Study Unit

INTRODUCTION TO LEGAL SKILLS

Overview of Chapter

Activity Answers

1. The Concept of Law

CONCEPT	KEY POINTS
What is law(definition)	The only body of rules governing human conduct that is recognized by the state and is if necessary, enforced.
Constructed self definition	A <u>system</u> of rules <u>recognized</u> by the state meant to <u>control</u> human action and is <u>enforceable</u> .
Scope	The entire community with no exceptions.
Alternative approach	Values, Ubuntu, sense of community
The need for rules and the law	Rules help us, humans, to form societies so that we can control the way in which we interact with one another and the things in our environment
Humby T <i>et al</i>	Law provides the <u>rules or norms</u> that <u>guide human behavior</u> in society according to a general <u>accepted ideology</u> that prescribes what is <u>acceptable and not acceptable</u> , what type of behavior must be rewarded and what must be punished to avoid future repetition and to hold people accountable for harm done.

Activity Answers

Explain the Term law: It is a set of rules governing human conduct, recognized by state and enforceable.

2. The Functions of Law

CONCEPT	KEY POINTS
Function (Definition)	Law <u>creates and maintains</u> peace and order in the society by <u>balancing</u> the interests of individuals and those of the larger community or the state.
Bill of Rights	This Bill of Rights is a <u>cornerstone of democracy</u> in South Africa. It enshrines the <u>rights of all people</u> in our country and affirms the democratic values of <u>dignity, equality and freedom</u> .
Social Contract	Creates and maintains order of all human beings
Function (Civil Law)	Law serves to maintain peace and order by <u>controlling the relationship between</u> individual members of the community or <u>citizens as legal subjects</u>

3. The Importance of Skills

CONCEPT	KEYPOINTS
Reason (definition)	Have the skills and ability to apply the knowledge, access the law and study effectively
	Should be able to evaluate facts and solve and categorise complex legal problems.
	Ability to construct and sustain sound legal arguments and apply the applicable rule.
	A lawyer is expected to apply his/her knowledge in practical situations such as researching the law ,giving legal advice , interviewing clients and witnesses, conducting a trial, litigating, drafting legal documents.
Praxis	Every aspect of thinking or knowledge should be accompanied by <u>action or application.</u>

Activity Answers

4. Our Approach in this Module

CONCEPT	KEYPOINTS
	There is a need to integrate theory with practice to go through a process of <u>experiencing reflecting, thinking and acting.</u>
	Learning is done through experience, instead of simply reading.
Self Test	Now that I know what it is, and how it works, can I apply it when I am required to?

Activity Answers

STUDY UNIT TWO

1. Learning and Studying

CONCEPT	KEY POINTS
Barrat <i>et al</i> (definition)	Studying is work done on your own and requires self discipline.
Studying	Studying is when you physically engage in the process of organising the study material and using them to acquire knowledge for a purpose.
Learning	Is the impact or outcome of studying, it is an active process.
	Everything you absorb in the studying process is learning

1.1 Learning as a Core Element of Education

CONCEPT	KEYPOINTS
Paul Feire explains banking education (memorization)	<u>Banking education</u> maintains its currency because it appropriates reasoning capacity of students to self-replicate, It limits student's reason to accepting the knowledge of others rather than constructing knowledge based on their own realities and experiences.
Learning involves	A learner actively, and as a subjective being, gets involved and participates in the process.
	Expected to be an active participant with values, ideas, experiences and a mind that has the potential to reason rationally
Conscientisation	A form of co-intentional education, in which students and teachers co-intend reality, that is both are subjects in critically unveiling reality and recreating knowledge
	Engage in dialogue; gather new ideas and making them your own, questioning information and re-interpreting it.

Activity Answers

1.1.1 The Exploration Phase

CONCEPT	KEYPOINTS
Definition	It is the preparation process, gathering information on subject matter before hand.
	Allows you to ease into a matter, before intensive study
Includes	Collections of study material, making contact with peers, identify challenging concepts, overview and summary of material. Make notes

Activity Answers

1.1.2 The Fixation Phase

CONCEPT	KEYPOINTS
Definition	Period of intensive reading and getting a grip of material.
Includes	Consolidation of facts, summarising facts, reviewing and supplementing notes, memorization(conditional)

1.1.3 The Testing Phase

CONCEPT	KEYPOINTS
Definition	Testing your grasp and understanding of material

1.2 The Study Environment

CONCEPT	KEYPOINTS
Social Space	People around you who may influence you negatively or positively. Find ways of managing this space.
Physical Space	Consistent, clean, quiet, comfortable, lighting and ventilation, temperature control, no distractions.

1.3 Motivation

CONCEPT	KEYPOINTS
Definition	Two types of Motivation. Extrinsic and Intrinsic. Both these help identify the learning styles or study patterns that you should adopt.
External Motivation	Comes from the OUTSIDE of an individual, said to be weaker than intrinsic, (father forcing son example)
Internal Motivation	Individual pushes himself from inside driven by one's own conscience. Ones own set goal that you want to achieve.
Learning Contract	A binding contract between one and themselves that keeps one focused and accountable to the goals

1.4 Healthy Diet and Lifestyle

CONCEPT	KEYPOINTS
Recommendations	Food stuffs to avoid like coffee, eat regular small meals, drink water, get enough sleep, eat veggies and fruits and exercise regularly.

1.4.1 Prioritising

CONCEPT	KEYPOINTS
Definition	Identify time at ones disposal and allocate that time to certain activities according to their order of urgency and Importance.
	Identify the difference between your wants and should do's.
	In order to fulfill these tasks, one has to come up with a timed timetable in order to keep tabs on the progress
Kok <i>et al</i>	Urgency of activity, importance of one activity over the other, anticipated degree of difficulty, time needed (projections), scope and value of work involved.

Activity Answers

1.4.2 Time Planning

CONCEPT	KEYPOINTS
Definition	Useful in ensuring that you keep focused and you organize your time and activities such that you reduce chances of running out of time and not being able to fulfill the intended task.
Helps against	Procrastination, working only when under pressure, imbalance of activities.

1.5 Study Groups

CONCEPTS	KEYPOINTS
Reason	Helps develop our thoughts, social skills, and other behavioural patterns
Maughan C	Come learn with me and we shall be exemplars of proficiency. But if you yearn to be alone, then you must learn it on your own.
What makes groups work	Mutual respect, understanding of common objective, observe basic group rules, defined roles, trust and confidence in each other, manageable(size), co-operative and contributory members
Advantages	Can be a pool of motivation, boost confidence, forces seriousness, benefit from hearing other points of view, clarification platform,
Disadvantages	Leaches who don't contribute, clash of personalities, ego power trips, logistical nightmare, correlating life schedules, venues etc.

2.9.5 a) The Central Figure Model

CONCEPTS	KEYPOINTS
How does it work?	The person in the middle controls flow of communication, this model is good for simple tasks.
Disadvantage	Central person can get overloaded and not effectively distribute info.
	This pattern of communication is used mostly in meetings where all members address their comments through the CHAIRPERSON.
	Success of this model depends on leadership and efficiency of central figure.

b) Decentralised Figure

CONCEPT	KEYPOINTS
How does it work	Communication flows freely between group members, this model is suitable for small groups
Disadvantage	Because it is fairly unstructured it can lead to becoming a social club, because no one is there to see to it that things are done.

c) Free flow of communication + chairperson model

CONCEPT	KEYPOINTS
	Because group members can freely talk to each other and the leadership is also available, this model is used with the biggest success.

2.10 Note Making

CONCEPT	KEYPOINTS
Definition	Suggests that you write down the <u>important points</u> and leave out the less important stuff
	Its Important you have read the texts in full in order to identify the important and not so important stuff
Reading techniques	Speed-reading, skimming, scanning and study reading.
Reason	We make notes to have at our disposal a ready record of the important things whenever we need to use them.
Notes should include	Main ideas, details and illustrations and examples

Notes develop	From effective reading and listening strategies, helps maintain concentration when studying, promote learning since it is an active process, write in your own words, serves as a reinforcement, a record for the future,
Formats	Headings, markers (bullets, numbers).

Activity Answers

2.10.1 Note Making Styles

CONCEPT	KEYPOINTS
Visual Notes	Schematics, diagrammatic, mind maps (spider-grams, branching notes, tables, flow charts)
Narrative Notes	These are more textual, engage in a lot of written work (linear notes, lists, timelines, keywords, paragraphs, questions method, segmenting and labelling)
Which one applies in what situation	Depends on individual learning style, kind of subject, distance from exams, which phase of study you are on
	****TRY MIX UP THESE AND COME UP WITH YOUR OWN

Activity Answers

2.11 Study Methods

CONCEPT	KEYPOINTS
	There is a close relationship between one's attitude or perspective on learning and the study method selected for use in studying.
Banking Education	Rote learning, regurgitate the knowledge you have been fed
Conscientisation	Critical learning, critical reflection and engagement
Mnemonics/memory strategies	For you to be able to deal with a certain topic, idea, arguments you are expected to recall/remember certain words, figures, keywords and so on
	Acronyms, Acrostics, Keyword method, linking/chain method, association, imagery, classifications

Activity Answers

2.12 Summaries

CONCEPTS	KEYPOINTS
Definition	It is a short or brief way of representing the contents of the original text. Thus only the main important ideas of the original text will find space.
Includes	Ideas from writer, quotations from original text SHOULD BE AVOIDED. It is normally only 1/10th of the original.
Identify	Keywords, ideas, specific points, highlight as you read.
Suggestions	Don't try and change original text, read the entire text in whole so as to grasp it, find keypoints used to support argument, include definitions, principles, theories, simple language, coherent,

Activity Answers

Which study method works In banking education?: memory strategies, acronyms and classifications.

STUDY UNIT 3: READING SKILLS

“ It has been said that skilful reader reads the lines (comprehends), reads between the lines (interprets) and reads beyond the lines (react and applies ideas)” Hafner LE

1. When are you An Effective Reader

CONCEPT	KEYPOINTS
When you	Apply different the appropriate reading techniques, understand purpose of text, see both bigger and detailed picture, see interrelations and reality and link it to known facts, make correct assumptions.
Evaluate for	Purpose, usefulness, scientific correctness, objectivity and content.
	Interpret and understand text.
	Recognise context, know meanings of words, understand literal and figurative speech. Identify message and most important message

Activity Answers

2. To read and Understand an Act of Parliament

CONCEPT	KEYPOINTS
When you read an Act you	Look at the text itself, context of the act.
Signed Text	It is the version (language) that was officially signed by the President, in case of a dispute; we refer to the signed text.
Long title	It explains the purpose of the Act
Preamble	An introductory statement In a document that explains the document purpose and its underlying philosophy.
Broken down	Sections, subsections, paragraphs, sub paragraphs

Activity Answers

How to read a Court Case

2.1 Case Name

CONCEPT	KEYPOINTS
	Reference always start with the names of the parties
<i>S v Makua</i>	State versus the Accused. This is a criminal case
<i>Molefe v Mahaeng</i>	Plaintiff vs Defendant or Appellant vs Respondent. This is a Civil case
<i>Ex Parte Addleson</i>	Application proceeding has been used. Ex parte means in the application and the name of the person bringing the application immediately follows. It means it is unopposed n all parties agree to the facts.

Activity Answers

2.2 Year and Volume

CONCEPT	KEYPOINTS
Definition	Relates to books or bundles in which publishers report cases every year. Law reports. Comes after names of parties
Example	<i>S v Makua</i> 1993 (1)

2.3 Series of Law Reports

CONCEPT	KEYPOINTS
Definition	There are numerous commercially published law reports. They are identified by the abbreviation in their name. They appear after the date and volume of the report.
<i>S v Makua</i> 1993 (1) SACR 160 (T)	SACR- South African Criminal Law Reports
SCA	South African Law Reports
CLR	Commercial Law Reports
SALLR	South African Labour Law Reports
BCLR	Butterworth's Constitutional Law Reports

Activity Answers

2.4 Page where the report starts

CONCEPT	KEYPOINTS
<i>S v Makua</i> 1993 (1) SACR 160 (T)	This case starts on page 160

Activity Answers

2.5 The Court where the case was decided

CONCEPT	KEYPOINTS
Definition	Since there are many courts in SA, this helps identify the court where the decision was taken. It is in Abbreviation and comes right after the page.
<i>S v Makua</i> 1993 (1) SACR 160 (T)	The (T) stands for Transvaal

Activity Answers

2.6 The Structure of a reported case

CONCEPT	KEYPOINTS
Catch Phrase (Fly Notes)	Most important points with which the judgment is concerned.
Head Notes	Written by Editor of Law report, it is a summary of the case.

Activity Answers

3. Reading and Understanding Journal

CONCEPT	KEYPOINTS
Questions to ask	When was the article published
	Was it before or after the new constitution
	Who is the Author of the article (reliability of source)

Activity Answers

STUDY UNIT 4: COMMUNICATION AND LITIGATION SKILLS

1.1 What is non-verbal Communication

CONCEPT	KEYPOINTS
Definition	It's a way of communicating, sending or receiving messages without using words.

Activity Answers

1.2 The Importance of non-verbal Communication

CONCEPT	KEYPOINTS
	The legal field lies on the fact that legal practice is based on persuasion and credibility
	One must use non-verbal communication to give credibility.
Includes	Use Body language, attitude, clothes to communicate
Examples	Clothes, body language, facial expressions, Eye contact, tone of voice

Activity Answers

2. Interviewing

CONCEPT	KEYPOINTS
	It is important to note that all the different sub-sections, (non-verbal communication, interviewing, listening and logic) should not be seen in isolation.
Why Interviewing skills	A major part of what a law practitioner does rests on interviewing
	It is the nature of the profession that you will have to find more information from other people who may help in your preparation, appearance in court or even when you give legal advice.
	Consultation with witnesses, experts or other role players in a specific matter.
Functions	To establish interpersonal dimensions of lawyer-client relationship, to identify issues and obtain sufficient detailed information to advance the matter, identify clients objective so as to advice accordingly, to prepare way for further action.
	Your ability to use non-verbal communication to abstract as much information as possible will help.

Activity Answers

2.1 Preparing for Interviews

CONCEPT	KEYPOINTS
Importance	To get you ready and make you know what you want from the interview, to be able to establish the issues in conflict and soon. To ask the right questions, to get the relevant information.
	Know the kind of information you will need, personal details etc
	Research the applicable law
	Try and preempt your opponents arguments and questions and put it to the client for a reaction as well as to prepare for the questions

3.3 The Actual Interview

CONCEPT	KEYPOINTS
	Try make the client or interviewed person at ease
	Start off by showing interest in the client, or witness, personal life, career, etc
	Do not rush into the main issues, enquire on name and how they would like to be called, offer a drink,
	It's important to state who you are working for if it's a witness you are interviewing and reassure confidentially.

Activity Answers

3. Listening skills

CONCEPT	KEYPOINTS
Maughan and Webb	Failure to listen to the client's story will not only limit the accuracy your information gathering and advice, but may damage your ability to build up a rapport and gain the clients confidence.
Kagan	Listening is a skill that is acquired not a natural ability. Students should learn the techniques and practice them till they become comfortable habits
Comparative definition	Hearing is mostly passive, spontaneous and rather indifferent; whereas listening is a more active, conscious and deliberate exercise by the Interlocutor
What is being a good listener?	Be empathetic, keep eye contact, listen with your eyes, interactive body language, eg instant nodding. Seek clarification if you do not understand something, paying full attention.
	A good listener is not passive, and that the listener has certain things that he/she has to do during the interaction or communication process.

Activity Answers

4. Logic and Legal arguments

CONCEPT	KEYPOINTS
Legal Argumentation	Argumentation forms the basis of all forms of legal argumentation or oral advocacy
	It is this activity by a lawyer to apply the relevant law of a particular legal problem.
	The ability to argue in the legal practice, as in many other social situations, depends on how one is able to construct a sensible and

	fluent chain of ideas which lead to a probable or acceptable conclusion.
	The ability to argue effectively depends on how logically your ideas are organized with reference to sequence, combination and reaching acceptable conclusions.

Activity Answers

4.1 What is Logic

CONCEPT	KEYPOINTS
Definition	Logic has to do with the ability to solve problems by argumentation. Good thinking, meaningful and in sequence.
	It is a study of rational thinking and is concerned with the structure of valid arguments.
What is argument?	It is a network of statements in which one statement is made on the strength of the rest.
Deductive reasoning	$P1 + P2 = C$. The premises forces the conclusion on you, It arrives at certainties. For an argument to be true and not only valid, the premises have to be true, i.e meaningful facts. From these a valid conclusion which will be true too can be deduced.
Inductive reasoning	A balance of probabilities as the conclusion when the premises are evaluated.
Premises	These can be perceived or acknowledged facts or assumptions

Activity Answers

5. Litigation and advocating in a court of law

CONCEPT	KEYPOINTS
Preparation	Starts by getting your mind ready for the work you are about to do. Do research on the relevant law, be conversant of the contents of your file, formulate questionnaire, prep witnesses, be punctual,

Activity Answers

STUDY UNIT 5: LEGAL ACTORS

1. The South African Legal system

CONCEPT	KEYPOINTS
Humby et al	People currently operate in the South African legal system, either by virtue of holding a particular office, because they choose to practice a particular profession or simply they are, as legal persons, inherent actors in the system as it currently stands.
Chapter 9 Institutions	Stipulated by the constitution, they include The Public Protector, the South African Human Rights Commission, the Commission on Gender Equality, the South African Law Reform Commission, and various ombudsmen. These are guardians of the legal system. The comments and commentaries of these bodies on the wider legal issue, to a great extent, make them worthy of being viewed as powerful legal actors.
The different actors	Ordinary citizens, private practitioners, public practitioners, protectors, presiding officers, court officials and related roles, other legal officers and functionaries.
The social contract	Citizens agree to be controlled or bound by the system in what may be referred to as a social contract. This is a situation where citizens have willingly come together and agreed to a set of rules in terms of which their lives will be organized and thus create a sense of order, certainty and protection. It is in this regard that a state of rule of law is created.

Activity Answers

1.1 Legal Practitioners as legal actors

CONCEPT	KEYPOINTS
Ordinary citizen participation	Participation of an individual can be either through direct involvement by civil action or by <i>proxy</i> . Members of the public will inevitably interact with various legal practitioners when they are faced with legal challenges or any other issue in life that might have legal consequences.
Private Legal Practitioner	Generally employed by pvt person to represent them when they have legal challenges.
Paralegal:-	works besides an attorney to assist them with ancillary legal matters. Legal research, debt collection, and managing a pvt practice.
Attorney	Completion of 4yr LLB degree, would include drafting contracts, wills, affidavit,
Candidate Attorney	Serving articles under an experienced attorney

Notary Public	Attorney who has passed the relevant exams and does notary work.
A conveyance	An Attorney who passed conveyancing exam, transfer of immovable property.

Activity Answers

STUDY UNIT 6: NUMERACY SKILLS

1. Introduction

CONCEPT	KEYPOINTS
Why literacy skills	We simply cannot function in today's world without a mathematical knowledge or sense of basic calculation
Kleynhans B & Grobbelaar C	It is in this respect that we strongly feel that every citizen in this increasingly mathematicalised modern society needs to be truly mathematically literate.

Activity Answers

2. What is Numeracy

CONCEPT	KEYPOINTS
Definition	The ability to understand and use numbers, statistics, graphs, and calculation.
Palmer et al	Consider numeracy to be the study of numbers and their manipulation.

Activity Answers

3. Why lawyers need Numeracy skills

CONCEPT	KEYPOINTS
Reasons	To settle a clients accounts, estates, claims. Paying salaries, consultation fees, divide estates, determine damages. working out interest.etc
Other examples	Keeping a clients trust account and managing it, executor of estate, administrative fees, practicing in areas like tax and commercial law. Giving advice on a areas like ante-nuptial, contract, commercial contracts.

Activity Answers

FORMULAS