

**SCL1014**October/November 2010
Oktober/November 2010
**SKILLS COURSE FOR LAW STUDENTS
VAARDIGHEDE VIR REGSTUDENTE**
Duration 2 Hours
Tydsduur 2 Uur100 Marks
100 Punte
EXAMINERS / EKSAMINATORE
 FIRST / EERSTE MR/MNR MD LETSOALO
 SECOND / TWEEDE MS/ME P MOLUSI

 Use of a non-programmable pocket calculator is permissible
 Gebruik van 'n nie-programmeerbare sakrekenaar is toelaatbaar

 This paper consists of 30 pages
Hierdie vraestel bestaan uit 30 bladsye.

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 mag nie uit die eksamenlokaal verwyder word nie.**
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 u dit beantwoord.
- 3 Gebruik 'n BLOU of 'n SWART PEN wanneer u die vrae op die EKSAMENVRAESTEL beantwoord MOET ASSEBLIEF NIE 'N POTLOOD GEBRUIK WANNEER U ANTWOORD NIE

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[BLAAI OM]

SECTION 1
AFDELING 1

Answer ALL the questions Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided
Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die toegelate ruimte.

QUESTION 1 / VRAAG 1

"It is important from the start for us to indicate that learning is an active process Being a process suggests that it involves a lot of activities"
"Van die begin af moet dit ook duidelik wees dat leer 'n aktiewe proses is. Omdat leer 'n aktiewe proses is, moet baie aksies plaasvind."

- 1.1 List four activities that characterise a learning process (2)
1.1 Noem vier aktiwiteite wat 'n leerproses kenmerk. (2)

- Questioning / Interrogating ↓ info
- Gathering new ideas / info & making it your own
- relating ↓ info to one's life & applying it relevant
- Interacting / discussing with fellow students
- Sharing ideas & so on.

- 1.2 Explain the concept "memorisation" (2)
1.2 Verduidelik die konsep "memorisering". (2)

Memorisation entails storing facts or details in your mind. The key point is to be able to recall or remember certain figures, keywords etc when reading through a certain topic or argument
This is what makes memorisation relevant to students

- 1.3 State some of the things that may be done during the "fixation phase" (3)
1.3 Noem sommige van die dinge wat gedoen kan word tydens die "fiksasie fase". (3)

The Fixation phase involves intensive reading to get to grips with ↓ real contents of ↓ topic

QUESTION 3 / VRAAG 3

"Internal motivation is intrinsic (internal) to the individual. The individual knows and pushes him/herself from his/her own conscience or heart to do well."

"Interne motivering kom vanuit die persoon se innerlike. Die persoon is bewus van en weet wat om te doen en dryf hom-/haarself om beter te presteer."

3.1 In your own words, and using your own examples, describe what characterises intrinsic motivation (2)

3.1 **Beskryf, in jou eie woorde, en met behulp van jou eie voorbeelde, wat innerlike motivering kenmerk.** (2)

- Internal motivation stems from inside an individual.
- one motivates oneself to succeed because they have certain goals they want to achieve.
- If you set goals, you would want to achieve them, no-one would have to push you.
- If I pass SCL, I will improve my^{law} skills.

3.2 What is the relationship between learning contracts and the whole notion of "intrinsic motivation"? (1)

3.2 **Wat is die verhouding tussen leerkontrakte en die konsep van "interne motivering"?** (1)

Learning contracts helps you sustain your motivation, as it reminds you of your commitments you have & pushes you to study to achieve your goals.

QUESTION 4 / VRAAG 4

4.1 Drawing on your knowledge from the Skills Course for Law Students (SCL1014), advise your friend who frequently has the following challenges in terms of his/her studies

- procrastination and postponing work,
- working only when under pressure,
- imbalance in terms of time allocation for various subjects, activities etc (3)

- 5.2 Using your own words, list the cons of a study group (2)
5.2 Noem, in jou eie woorde, die nadele van 'n studiegroep. (2)

- Some students don't work hard & parasite on
| contributions of others
- Some students may not prepare for | group
| discussions
- Some members maybe arrogant & bully others

* Some students don't do their fair share
| of | work & can freeloader or sponge of others
* Some students may not even do | allocated work @ all
| required for | group discussions

QUESTION 6 / VRAAG 6

- 6.1 What does the following word/verb require you to do? (2)
6.1 Wat vereis die volgende woord/werkwoord van jou om te doen? (2)

- (i) Evaluate
(ii) Evalueer

Give your own opinion, using certain standards
as a basis, about a topic.

- 6.2 Read the following article adapted from the **Sowetan** (Friday 11 June 2010), and capture the essence of the text in four narrative lines (4)
6.2 Lees die volgende artikel, wat aangepas is uit die **Sowetan** (Vrydag 11 Junie 2010) en gee die kern van die teks in vier herhalende sinne weer. (4)

“D-Dag vir ‘verkragter” deur Canaan Mdletshe

Onderwyser wat na bewering 'n doofstom weeskind gemolesteer het steeds in pos

Die polisie het gister bevestig dat die onderwyser wat na bewering 'n 14-jarige gestremde weeskind by die Indaleni Skool vir Dowes in Richmond, KwaZulu-Natal, verkrag het, binnekort in hegtenis geneem sal word.

“Ons kan bevestig dat 'n klag van verkragting gelê is, en 'n inhegtenisname is onderweg,” het polisiewoordvoerder Vincent Mdunge gister gesê. 'n Familielid sê die meisie is verlede jaar verkrag. Die Graad 7-leerling, wat doofstom is, het laas maand opgehou om klasse by te woon en die skool verlaat.

Die weeskind se suster pleit nou by onderwysowerhede om haar te help. Die ouer suster, wat 24 is en wie se naam nie bekend gemaak mag word nie om die slagoffer te beskerm, sê die beproewing het haar suster “psigologiese skade” aangedoen.

Die twee wesies huur 'n plakkershut by die Bhekuzulu-township in Vryheid in noord-Zululand. Hulle het hul ouers tussen 2003 en 2005 verloor. Die oudste suster sê sy het eers einde verlede maand van haar suster se beproewing gehoor toe dié selfmoord probeer pleeg het.

“Sy het wasgoedpoeier gedrink. Toe dit nie werk nie, het sy probeer om haarself by die skool op te hang, maar gelukkig het die ander leerlinge haar gered,” het sy gesê.

Die suster het skool toe gegaan om uit te vind hoekom haar suster selfmoord probeer pleeg het, maar niemand kon vir haar 'n verduideliking gee nie.

“Een van die onderwysers het later gebel en vir my gesê dat sy vir die skoolhoof vertel het dat een van die onderwysers wat in die koshuis bly haar in November verkrag het, maar dat die skoolhoof wou die storie stilhou om die onderwyser te beskerm. Die skoolhoof het niks vir my gesê nie,” het sy gesê.

Sy het die skoolhoof gekonfronteer, maar hy het ontken dat hy iets weet. Die onderwyser is nog steeds by die skool. Sy sê haar suster is so getraumatiseer dat “ek bang was sy gaan haarself seermaak aangesien sy nog geen berading ontvang het nie. Sy praat gedurig oor die dood,” het die suster gesê.

Sy sê sy het 'n nuwe skool gekry vir haar suster om by te woon in Pinetown buite Durban. “Die fooie by dié skool is R18 000 per jaar en ek kan dit nie bekostig nie”, sê sy. Onderwysdepartement-woordvoerder

SECTION 2
AFDELING 2

Answer ALL the questions. Your answers in this section must be written DIRECTLY on the examination paper in the space provided

Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die toegelate ruimte.

QUESTION 1 / VRAAG 1

X and Y decide to pool all their assets and liabilities to set up a partnership. X's assets are worth R279 996 and Y has assets worth R779 000 and liabilities of R145 988. Calculate the final assets of the partnership. (1)

X en Y besluit om hul bates en laste saam te sit om 'n vennootskap te begin. X se bates is R279 996 werd en Y het bates ter waarde van R779 000 en laste van R145 988. Bereken die finale bates van die vennootskap. (1)

X assets	279 996	Liabilities	145 988
Y assets	779 000		
	1058996		
Final assets = 1058996			
Value of partnership = 913 008			

QUESTION 2 / VRAAG 2

D inherits from his uncle's estate assets to the value of

Car	R60 999, ✓
House	R450 000, ✓
Farming equipment	R197 856, ✓ and
D has a student loan of	R50 899, ✓
D owes a jewellery store worth	R4 077, ✓

Calculate the net value of D's estate

D erf uit sy oom se boedel bates ter waarde van:

Kar	R 60 999;
Huis	R450 000;
Plaasimplimente	R197 856; en
D het 'n studielening van	R50 899;
D besit 'n juwelierswinkel ter waarde van	R4 077;

Bereken die netto waarde van D se boedel. (1)

assets 709225
Liabilities
Net V = Assets - L
708855 - 54977 (1)
- 653878 ✓

300 200 300 300 1200
 Consulted twice, first for 9 minutes and later for 1¼ hours,
 Client went to consult an orthopaedic surgeon at a cost of R4 900 VAT
 excluded

Draft a comprehensive statement of account (10)

'n Prokureur hanteer 'n rekening vir sy kliënt op die volgende basis:

Elke brief ontvang R45;
 Elke brief geskryf R90;
 Opstel van 'n dagvaarding R4 500;
 Opstel van 'n beëdigde verklaring R50 per bladsy of gedeelte daarvan;
 Konsultasie R300 per 30 minute of gedeelte daarvan;
 Telefoniese konsultasie R75 per 15 minute of gedeelte daarvan;
 Seëls R10 BTW uitgesluit.

Gedurende die afgelope maand het die prokureur die volgende dienste gelewer:

20 briewe ontvang;
 10 briewe geskryf;
 2 dagvaardings opgestel
 'n Beëdigde verklaring van 3¾ bladsye opgestel;
 Telefonies gekonsulteer vir 26 minute;
 Twee keer gekonsulteer, die eerste keer vir 9 minute en die tweede keer vir 1¼ uur;
 Die kliënt het 'n ortopediese chirurg besoek teen 'n koste van R4 900 BTW uitgesluit.

Stel 'n omvattende rekeningstaat op.

(10)

Item/Service	Fees Excl VAT	Disbursements ^{incl} VAT
Letters Written	900	
received	900	
posted		114
Summons	9000	
Affidavit	200	
Telephone Con	150	
Consultation	1200	
Modico legal Report		5586
	12350	5700
	1729	
	14079,00	

19779

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staff m①	staff m②	staff m③
2	2	1
2/5	2/5	1/5
x 150 000	x 150 000	x 150 000
60 000	60 000	30 000

QUESTION 6 / VRAAG 6

You obtained the following marks 19/25, 35/50 and 30/40 for assignments ILW1036, FLS101V and SCL1014 respectively. In which assignment did you receive the highest marks? (1)

Jy het die volgende punte ontvang, 19/25, 35/50 and 30/40, vir werkopdragte in ILW1036, FLS101V en SCL1014 onderskeidelik. Vir watter opdrag het jy die beste punt gekry? (1)

ILW1036 ^{19/25}	FLS101V ^{35/50}	SCL1014 ^{30/40}
$\frac{19}{25} \times 100$	$\frac{35}{50} \times 100$	$\frac{30}{40} \times 100$
76%	70%	75%
average = $76\% + 70\% + 75\% = 221 \div 3 = 74\%$		

QUESTION 7 / VRAAG 7

Give four examples of transactions where an attorney will/may have to use funds to pay on behalf of a client. (2)

Noem vier voorbeelde van transaksies waar 'n prokureur fondse kan/mag gebruik om namens 'n kliënt te betaal. (2)

* Medico legal report
Advocate report / fees
Stamps

* Sheriff's fees to serve summons.

SECTION 3
AFDELING 3

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QUESTION 1 / VRAAG 1

In order to answer the questions in this section, you will again have to read the newspaper text (adapted from the *Sowetan*) in section 1 of this examination paper

Om die vrae in hierdie afdeling te kan beantwoord, moet jy weer die koerantberig (soos aangepas uit die *Sowetan*) in afdeling 1 van hierdie vraestel lees

Mosibudi Swele, the sister of the alleged rape victim, has decided to lay a charge of rape against Morutiši Senokwane, the teacher who allegedly raped the 14-year old disabled orphan. Now Morutiši Senokwane approaches you to represent him in the matter.

Mosibudi Swele, die suster van die vermeende verkragtingslagoffer, het besluit om 'n klag van verkragting te lê teen Morutiši Senokwane, die onderwyser wat na bewering die 14-jarige gestremde weeskind verkrag het. Nou nader Morutiši Senokwane jou om hom in die saak te verteenwoordig.

Yes/No answers.

- 1.1 Write four direct questions that you will ask him during the consultation to elicit important information to help you work on the case (4)
- 1.1 Skryf vier direkte vrae neer wat jy vir hom sal vra tydens die konsultasie ten einde belangrike inligting uit hom te kry wat jou sal help om aan die saak te werk. (4)

- 1) How do you plead? *Deaf & Dumb*
- 2) Do you know the 14 year old orphan? *?*
- 3) Do you have any previous convictions? *?*
- 4) Is there anyone else who is aware of this situation? *?*

1.4 The prosecutor asks Mosibudi Swele the following questions (during examination in chief)

- "Did your sister drink washing powder because she was traumatised?"
- "Was she traumatised because of what this man did to her?"

Explain fully what you would do in this situation in response or reaction to his/her questioning (2)

1.4 Die aanklaer vra vir Mosibudi Swele die volgende vrae (tydens hoofondervraging):

- "Het jou suster die waspoeier gedrink omdat sy getraumatiseer was?"
- "Was sy getraumatiseer weens dit wat hierdie man aan haar gedoen het?"

Verduidelik ten volle wat jy in hierdie situasie sou doen in reaksie op sy/haar vrae. (2)

I would object because it is a principle of law that leading questions are not allowed during examination in chief

- 2.3 Explain fully the notion of "argumentum ad hominem" (2)
2.3 Verduidelik die konsep "argumentum ad hominem" ten volle. (2)

When in an argument situation,
1 participant does not
attack + argument, instead he
attacks + person submitting + argument

TOTAL SECTION 3 [20]
TOTAAL AFDELING 3: [20]

SECTION 4
AFDELING 4

QUESTION 1 / VRAAG 1

- Mention two critical reasons for research in law (1)
Noem twee belangrike redes vir navorsing in regswork. (1)

- The law is always changing & being updated regularly -
- Legal research is very important because as a Lawyer you would need to consult a number of sources in order to finalise an argument.

QUESTION 2 / VRAAG 2

- Distinguish between footnotes and a bibliography in a research work. (2)
Onderskei tussen voetnotas en 'n bronnelys in 'n navorsingswerk. (2)

Footnotes are found @ 1 bottom or foot of 1 page They are never in alphabetical order, conversely Bibliography is found @ 1 end of 1 last page of your research.
Always in Alphabetical order.

QUESTION 3 / VRAAG 3

- 3.1 Mention four structural components of a journal article (2)
3.1 Noem vier strukturele komponente van 'n joernaalartikel. (2)

QUESTION 5 / VRAAG 5

Compare a table of contents and a subject index (1)
 Vergelyk 'n inhoudsopgawe en 'n onderwerpindeks. (1)

Table of contents - usually in front of 1 book
gives an indication per chapter, what info you can
find & what page in 1 book.

Subject index - usually at 1 back of a book.
It's an alphabetical list of topics plus 1 page no
on which they appear in 1 book.

TOTAL SECTION 4 [10]
 TOTAAL AFDELING 4: [10]

SECTION 5
AFDELING 5

Answer ALL the questions. Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided
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QUESTION 1

Read the following article extracted from *Legalbrief* (21 June 2010)
 Lees die volgende artikel wat uit *Legalbrief* (21 Junie 2010) kom.

Constitutional Court settles rezoning powers issue

The Constitutional Court cleared up a dispute about whether the Constitution empowers the municipal or the provincial sphere of government, or both, to exercise powers relating to the rezoning of land and the establishment of townships, notes *Legalbrief*. It has confirmed an order made by the SCA, declaring Chapters V and VI of the Development Facilitation Act 67 of 1995 unconstitutional and thus invalid. The matter arose from a dispute between Johannesburg and the Gauteng Development Tribunal, a provincial organ created by the Act, which empowers the Tribunal to approve applications for the rezoning of land and the establishment of townships, whereas the Town Planning and Townships Ordinance 15 of 1986 empowers the City to make a determination on the same subject matter. The Constitutional Court held that the Constitution envisages a degree of autonomy for the municipal sphere, in which municipalities exercise their original constitutional powers free from undue interference from the other spheres of government. The SCA's finding that 'planning' in the context of municipal affairs has assumed a particular,

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Die beslissing het ook aandag gegee aan enige negatiewe gevolge wat 'n bevel van ongeldigheid mag hê op vorige en toekomstige ontwikkelings, en die bevel van ongeldigheid vir 24 maande opgeskort ten einde die Parlement die geleentheid te gee om die teenstrydighede in die Wet reg te stel, of om nuwe wetgewing uit te vaardig. Die bevel stel ook 'n voorwaarde wat ontwikkelingstribunale verbied om nuwe aansoeke vir grondontwikkelings aan te hoor binne die jurisdiksie van dié munisipaliteit en die eThekweni Munisipaliteit, aangesien hierdie munisipaliteite bewys het dat hulle die kapasiteit het om die betwiste mag uit te oefen. Die tribunale is egter by magte om alle hangende aansoeke in hierdie jurisdiksies te finaliseer.

Answer the following questions

Beantwoord die volgende vrae:

- 1.1 Does the Constitutional Court propose an amendment or repeal of the Development Facilitation Act 67 of 1995? Substantiate your answer (2)
- 1.1 Stel die Konstitusionele Hof 'n wysiging of herroeping van die Wet op Ontwikkelingsfasilitering, Wet 67 van 1995, voor? Staaf jou antwoord. (2)

- 1.2 When interpreting an Act, what presumptions should be taken into consideration as per the Interpretation Act 33 of 1957? (2)
- 1.2 Wanneer jy 'n Wet interpreteer, watter vermoedens moet in gedagte gehou word volgens die Wet op Interpretasie, Wet 33 van 1957? (2)

past paper repetition *

QUESTION 2 / VRAAG 2

An Act of Parliament consists of certain parts Describe any two (2)
 'n Parlementêre Wet bestaan uit sekere dele. Beskryf enige twee. (2)

Long Title - Explains the purpose of the Act

Preamble - Gives us an underlying philosophy of an Act

QUESTION 3 / VRAAG 3

Mthembu v Letsela and Another 2000 (3) SA 867 (SCA)

- i) In which court was this case decided? (1)
 ii) In watter hof is daar oor hierdie saak beslis? (1)

Supreme
Court of
appeal

[TURN OVER]
[BLAAI OM]

(ii) minority

(ii) minderheid

A judge differs with \perp majority of judges as far as \perp judgment & \perp reasons for \perp judgment are concerned. \perp judge differs with \perp majority & reaches a different conclusion. Doesn't create precedent, but can have persuasive force in \perp future

(iii) separate

(iii) aparte

A judge doesn't disagree with \perp conclusion of \perp other judges, but has different reasons for his judgment. Does not establish a precedent.

4.2 Mention three characteristics of an action proceeding (3)

4.2 Noem drie eienskappe van 'n aksie-verrigting. (3)

- In an action proceeding (molefevmahaeng)
- \perp procedure is started by way of a summons
 - This procedure is used when there is a fundamental difference bet \perp parties as far as \perp facts of \perp case are concerned
 - Action proceedings used in civil cases.