

ADVOCATES' EXAMINATION

PAPER 1

MOTION COURT PROCEEDINGS, AND INFORMATION AND COMMUNICATIONS TECHNOLOGY

Regulations 7(9)(b) and 7(9)(i)

6 APRIL 2022

09:00-10:15

Total: [50]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 1 hour then follows.

1. Candidates must answer all the questions.
2. Candidates must remember that marks are awarded for good draftsmanship.
3. Please write only in pen on the right-hand pages, the left side (underside) must only be used for your own notes.
4. Except if a special reason exists, a candidate will not be required to do an oral if 50% or more is attained. If a candidate achieves a score from 40% and below 50% he/she will be required to do an oral. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.
5. Admission papers 1 to 4 have orals for candidates who achieve a score from 40% and below 50%.
6. The legal writing and drafting paper (Paper 5) does not have any orals, candidates must achieve a minimum score of 50% to pass this paper.

**Motion Court Proceedings
and Information and Communications Technology
Regulations 7(9)(b) and 7(9)(i)**

6 April 2022

**Read all the text below and answer all the relevant questions
[TOTAL MARKS 50]**

1. Explain how the test for a final interdict differs from the test for an interim interdict. [7]
2. True or false? [1] The court has a general discretion to refuse a final interdict even when the applicant has satisfied the test for a final interdict.
3. Affidavits in motion proceedings serve two purposes. What are they? Motivate your answer. [6]
4. It is not permissible to serve court process on a person outside the Republic of South Africa without a court order. But the defendant lives outside South Africa. What must your client do to serve process on the defendant? [6]
5. Under what circumstances can you rescind a judgment? Explain the procedure and its essential requirements. [4]
6. Following the amendment to Rule 32(2) on 1 July 2019, what must the plaintiff explain in its affidavit requesting summary judgment. [4]
7. How many affidavits are permitted in an ordinary application? [1] What must a party do to file any supplementary affidavit? [4]
8. An unforeseen irresolvable dispute of facts has arisen on the papers. Explain the options you may use to rescue the applicant's case. [6]
9. Sometimes in motion proceedings disputes of fact are reasonably foreseeable. Yet you are obliged to proceed on motion proceedings. In what matters are you obliged to use motion proceedings. [6]
10. Are people entitled to conclude contracts by email without the use of an advanced electronic signature as defined in the Electronic Communications and Transactions Act 25 of 2002? Motivate your answer. [5]

[TOTAL MARKS 50]

FINAL EXAM INSTRUCTION TO CONSIDER:

Marks are not awarded in accordance with the length of your answer but in accordance with the insight you demonstrate in your answer.

- THE END -