

ADVOCATES' EXAMINATION

PAPER 1

MOTION COURT PROCEEDINGS, AND INFORMATION AND COMMUNICATIONS TECHNOLOGY Regulations 7(9)(b) and 7(9)(i)

1 SEPTEMBER 2021

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. Candidates must invent their own facts wherever necessary.
4. Please write only in pen on the right-hand pages, the left side (underside) must only be used for your own notes.
5. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.
6. Admission papers 1 to 4 have orals for candidates who achieves a score from 40% and below 50%.
7. 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.

QUESTION 1 **[1]**

True or false: Voluntary surrender applications require an even higher level of disclosure than do 'friendly' sequestrations.

QUESTION 2 **[1]**

In voluntary surrender applications, can an outright order be given on the first appearance in court?

QUESTION 3 **[1]**

In most sequestration applications, a provisional order precedes a final order in a two-stage process. Is that correct?

QUESTION 4 **[4]**

4.1 Is it permissible to commence a review under rule 53 with a combined summons? (1)

4.2 Why? (3)

QUESTION 5 **[3]**

5.1 What is CaseLines? (2)

5.2 Which High Courts are using CaseLines at present? (1)

QUESTION 6 **[1]**

An *ex parte* order was granted against a person. What is the minimum notice period to anticipate the return day of the order?

QUESTION 7 **[4]**

What applications must be submitted to the Master before being filed with the Registrar of the High Court?

QUESTION 8 **[2]**

Whether on constitutional grounds or otherwise, if the validity of a law is challenged, who must be joined in the proceedings?

QUESTION 9 **[3]**

9.1 When a person raises a constitutional issue in an application (or an action) to whom is it obligatory to give notice at the time of filing of the relevant affidavit or pleading? (1)

9.2 What is the purpose of giving that notice? (2)

QUESTION 10**[10]**

In certain cases the denial by a respondent of a fact alleged by an applicant may not be such as to raise a real, genuine or *bona fide* dispute of fact. Explain the 'well-worn test for the disposition of cases brought on application' in *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) ([1984] 2 All SA 366; [1984] ZASCA 51) at 634E – 635C.

QUESTION 11**[10]**

What is the rationale for the requirement that an applicant approach a court in an *ex parte* application with the utmost good faith?

QUESTION 12**[3]**

12.1 What are the two essential requirements an applicant must establish to obtain relief under the *mandament van spolie*? (2)

12.2 What is the effect of such relief? (1)

QUESTION 13**[4]**

What is the test for an interim interdict?

QUESTION 14**[3]**

What is the test for a final interdict?

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OF SOUTH AFRICA
- THE END -