

PROKUREURSEKSAMEN

DEEL 3 PROKUREURSPRAKTYK

17 AUGUSTUS 2016

09:00-11:15

Totaal: [100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 2 uur volg dan.

1. Kandidate moet al die vrae beantwoord.
2. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
3. Waar nodig, moet kandidate hulle eie feite versin.
4. Skryf assebliefslegs in pen op die regterkantse bladsye.
5. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% of meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druip.

ATTORNEYS' EXAMINATION

PART 3 ATTORNEY'S PRACTICE

17 AUGUST 2016

09:00-11:15

Total: [100]

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 2 hours 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.
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.

NOTAS:

1. Die lengte van die antwoord en die hoeveelheid detail hang af van die aantal punte.
2. Antwoorde word beoordeel met inagneming van die opstelwerk.
3. Kandidate word geenaliseer vir oortollige irrelevante inhoud.
4. Lees asseblief vraag 12 eerste.

VRAAG 1

[14]

Mnr A is gevra om 'n bedrag van R100 000,00 aan mnr B te leen teen 'n rentekoers van 12% per jaar. Die lening moet terugbetaal word in 12 (twaalf) maandelikse paaiemente. Ingeval enige paaiement nie betaal word nie, word die volle uitstaande bedrag opeisbaar en betaalbaar. Stel 'n geskikte skuldbewys op - versin bykomende feite en bepalinge wat u nodig ag.

VRAAG 2

[6]

Noem ses kontrakte wat op skrif moet wees om geldig te wees.

VRAAG 3

[15]

Stel klousules op in 'n huurkontrak van 'n sakeperseel, naamlik:

- 3.1 'n Opsie om die huurperseel te koop; (5)
- 3.2 'n Verbod op onderverhuring en soortgelyke handelinge; (6)
- 3.3 'n Opsie om die huur te verleng. (4)

NOTES:

1. The length of answers and the amount of detail should be based on the number of marks awarded.
2. Answers will be assessed with due regard to the draftmanship displayed.
3. Candidates will be penalised for answers padded with irrelevant material.
4. Please read question 12 first.

QUESTION 1

[14]

Mr A has been asked to lend Mr B an amount of R100 000,00 bearing interest at the rate of 12% per annum. The loan will be repayable in 12 (twelve) monthly instalments. In the event of any instalment not being paid on due date, the full outstanding amount must become due and payable. Draft a suitable acknowledgement of debt, fabricating such additional facts and provisions as you deem necessary.

QUESTION 2

[6]

Name six contracts which must be in writing to be valid.

QUESTION 3

[15]

Draft the following clauses in a lease agreement of a business premises:

- 3.1 An option to purchase the leased premises; (5)
- 3.2 A prohibition against sub-letting and similar actions; (6)
- 3.3 An option to renew the lease. (4)

VRAAG 4 [16]

By welke forum, tribunaal of kantoor sal u of u klient verligting soek in die volgende gevalle:

- 4.1 'n Eis om skadevergoeding van R14 000,00; (1)
- 4.2 'n Bevel dat 'n bepaling wat R250 000,00 raak ongrondwetlik is; (2)
- 4.3 'n Eis om heraanstelling na onregmatige ontslag; (2)
- 4.4 'n Onregverdigeberekening van pensioen-voordele deur 'n pensioenfonds; (1)
- 4.5 Ondervraging van 'n insolvent wat bates verberg; (2)
- 4.6 Wysiging of afdwing van 'n onderhouds-bevel van die Hoë Hof; (2)
- 4.7 'n Buitensporige fooi wat 'n prokureur in 'n strafszaak gehef het; (2)
- 4.8 Trustgelde skynbaar deur 'n prokureur gesteel; (2)
- 4.9 Verlies vanweë professionele nalatigheid van 'n kollega. (2)

VRAAG 5 [10]

Prokureur Z wat litigasie vir mev B hanteer, het aan haar 'n afskrif gestuur van 'n brief wat van die ander party se prokureur ontvang is, waarin 'n skikking voorgestel word en wat gemerk is "sonder benadeling van regte". Die brief bevat ook lasterlike bewerings oor mev B. Verduidelik aan haar wat die posisie met so 'n brief is met besondere verwysing na toelaatbaarheid in die litigasie en of die lasterlike bewerings die basis kan vorm van 'n lastereis.

QUESTION 4 [16]

At which tribunal, forum or office would you or your client seek relief in respect of the following:

- 4.1 A claim for damages for R14 000.00; (1)
- 4.2 An order that a provision affecting R250 000,00 is unconstitutional; (2)
- 4.3 A claim for reinstatement after unfair dismissal; (2)
- 4.4 An unfair calculation of pension benefits by a pension fund; (1)
- 4.5 The interrogation of an insolvent who hides assets; (2)
- 4.6 Amendment or enforcement of a High Court maintenance order; (2)
- 4.7 An excessive fee charged by an attorney in a criminal trial; (2)
- 4.8 Trust money apparently stolen by an attorney; (2)
- 4.9 Loss due to professional negligence of a colleague. (2)

QUESTION 5 [10]

Attorney Z, acting for Mrs B in litigation has sent her a copy of a letter from the opponent's attorney suggesting a settlement and marked "without prejudice". The letter also contains defamatory statements relating to Mrs B. Explain to her what the position is with such a letter with specific reference to its admissibility in the litigation and whether the defamatory statements can serve as the basis for a defamation action.

VRAAG 6 [8]

'n Prokureur laat toe dat 'n eis verjaar. Welke stappe moet hy doen om:

- 6.1 Die kliënt te beskerm; (4)
6.2 Homself te beskerm. (4)

VRAAG 7 [5]

Welke van die volgende sou ingesluit word by die berekening van aanwas?:

- 7.1 Groot inkomste deur die man verdien terwyl sy vrou die huishouding behartig; (1)
7.2 Geld wat die vrou verdien deur deelyds vir bure klere te maak; (1)
7.3 Die man erf R20 000,00 van sy oorlede vader; (1)
7.4 Die vrou ontvang R20 000,00 as algemene skade na 'n motorbotsing; (1)
7.5 Die POF betaal die vrou R50 000,00 mediese uitgawes. (1)

VRAAG 8 [5]

Lys die bronne van die reëls van professionele gedrag.

VRAAG 9 [5]

'n Prokureur is van die rol geskrap vanweë oneerlikheid. Na agt jaar doen hy aansoek om hertoelating. Aan welke vereistes moet hy voldoen om die hof te oortuig?

VRAAG 10 [5]

Welke dokumente en/of inligting in 'n prokureur se besit en/of waarvan hy kennis dra is nie onderhewig aan privilegie nie?

QUESTION 6 [8]

An attorney allows a claim to prescribe. What steps must be taken to:

- 6.1 Protect his client; (4)
6.2 Protect himself. (4)

QUESTION 7 [5]

Which of the following would be included in the calculation of the accrual as between spouses?:

- 7.1 Large income earned by the husband while his wife remained at home to manage the household; (1)
7.2 Money earned by the wife by part-time dressmaking for neighbours; (1)
7.3 The husband inherits R20 000,00 out of his father's estate; (1)
7.4 The wife receives R20 000,00 general damages arising from an accident; (1)
7.5 The RAF pays the wife R50 000,00 for medical expenses. (1)

QUESTION 8 [5]

List the sources where you would find the rules of professional conduct.

QUESTION 9 [5]

An attorney has been struck off the roll for dishonesty. After a lapse of eight years he applies for a re-admission. What are the requirements that the attorney must satisfy for the court to consider his/her application?

QUESTION 10 [5]

To what documents and/or information in an attorney's possession and/or of which he has knowledge do the issue of privilege not apply?

VRAAG 11 [5]

Op welke gronde mag 'n prokureur onttrek as prokureur en kliënt se mandaat beëindig?

VRAAG 12 [6]

Die eksaminatorsal tot ses (6) punte diskresionêr toeken gegrond op die algemene indruk met spesifieke verwysing na opstelwerk.

QUESTION 11 [5]

What are the grounds that would entitle an attorney to withdraw as attorney and terminate his client's mandate?

QUESTION 12 [6]

The examiner will award up to six (6) marks in his/her discretion based on general impression with specific reference to draftsmanship.

- DIE EINDE -

- THE END -


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