

PROKUREURSEKSAMEN

DEEL 3 PROKUREURSPRAKTYK

23 AUGUSTUS 2017

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 asseblief slegs 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% en 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

23 AUGUST 2017

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.

VRAAG 1 [25]

Skryf aan 'n voornemende egpaar wat van voorneme is om 'n huwelik te sluit, 'n brief waarin u die huweliksgoedere-bedelings wat van toepassing is in Suid-Afrika, uiteensit. U brief moet handel met die effek van elke bedeling op die partye se boedels gedurende die huwelik en by ontbinding daarvan met dood of egskeiding. (Die lengte van u antwoord en die detail vereis word bepaal deur die punte toegeken.)

VRAAG 2 [13]

Mev B het 'n geldige opsie om 'n strandhuis van Mev Seller te koop maar die opsie verstryk oor 2 (twee) dae. Sy (en u) is in Kaapstad en die opsiegewer is in Durban. Skryf 'n dringende brief aan Mev B waarin u haar adviseer hoe sy die opsie moet uitoefen inaggenome die tyd en die afstandbeperkings en heg die gepaste dokument aan wat nodig is om die opsie uit te oefen. Gebruik u eie denkbeeldige feite waar nodig.

VRAAG 3 [8]

Ten einde risiko's te vermy, oorweeg u kliënt om 'n *inter vivos* trust vir haar minderjarige kinders te skep. By wie word so 'n trust geregistreer, welke dokumente moet ingedien word en watter verdere inligting moet aan die owerhede verstrekk word by registrasie?

VRAAG 4 [20]

Mnr A verkoop sy besigheid. Die voornemende koper dring daarop aan dat die verkoping adverteer word ingevolge Artikel 34 van die Insolvensiewet. Verduidelik aan Mnr A die vereistes, die redes vir en die effek van die advertensie en van versuim om te adverteer.

VRAAG 5 [15]

5.1 'n Opskortende voorwaarde het 'n ander uitwerking op 'n kontrak as 'n ontbindende voorwaarde. Verduidelik kortliks die verskil. (5)

QUESTION 1 [25]

Draft a letter to a young couple who intend shortly to enter into a marriage setting out the marital property regimes which apply in South Africa. Your letter should deal with the application of each regime on the parties' estates during the marriage and at the dissolution either by death or divorce. (The length of your answer and the detail required is determined by the marks awarded.)

QUESTION 2 [13]

Mrs B has a valid option to buy a holiday cottage from Mrs Seller but the option expires in 2 (two) days. She (and you) are in Cape Town and the grantor of the option is in Durban. Write Mrs B an urgent letter advising her how and when the option must be exercised (bearing in mind time and distance constraints) and attach the document which is required to exercise the option. Use your own imaginary facts.

QUESTION 3 [8]

In order to avoid possible risks your client considers creating an *inter vivos* trust for her minor children. With whom would such a trust be registered, what documents must be lodged and what further information must be submitted to the authorities to obtain registration?

QUESTION 4 [20]

Mr A has negotiated the sale of his business. The intending purchaser is insisting that the sale be advertised in terms of Section 34 of the Insolvency Act. Explain to Mr A the requirements, the reasons for and the effects of advertising and of not advertising.

QUESTION 5 [15]

5.1 A suspensive condition has a different effect on a contract than a resolutive condition. Explain the difference briefly. (5)

5.2 Partye wil 'n koopkontrak ten opsigte van onroerende eiendom sluit onderworpe aan die voorwaarde dat die koper 'n verband oor die eiendom vir 80% van die koopprijs kry. Gebruik sodanige ander feite as wat u nodig ag en stel die klousules op wat u in die kontrak sal insluit om -

5.2.1 in die eerste geval voltooiing van die kontrak afhanklik te maak van die verkryging van die verband; (5)

5.2.2 in die tweede geval die kontrak te laat verval indien die verband nie verkry word nie. (5)

VRAAG 6 [10]

6.1 Mag 'n prokureur konsulteer met sy/haar kliënt in 'n siviele saak terwyl daardie kliënt onder kruisverhoor is? Bespreek kortliks. (3)

6.2 Mag 'n prokureur 'n sekretaresse toelaat om met kliënte te konsulteer en opdragte te neem in sy/haar afwesigheid? Bespreek kortliks. (4)

6.3. Mag 'n prokureur onder enige omstandighede inligting openbaar wat in vertroue deur sy/haar kliënt meegedeel is? Bespreek kortliks. (3)

VRAAG 7 [9]

U word geraadpleeg deur 'n arm kliënt wat 'n aansienlike skadevergoedingseis het as gevolg van 'n aanranding op hom. Hy het nie voldoende fondse om u fooie te betaal nie, maar dit lyk asof hy 'n baie goeie saak het. Adviseer u kliënt hoe u namens hom kan optree in sy skadevergoedingsaksie en op welke basis u vergoed kan word, indien enige.

5.2 Parties wish to enter into a deed of sale of immovable property which is conditional upon the purchaser obtaining a bond for 80% of the purchase price. Using any additional facts which you consider necessary, draw the clauses which you would include in the agreement which -

5.2.1 in the one instance will make the operation of the agreement dependant on the bond being obtained; (5)

5.2.2 in the other instance will terminate the agreement if the bond is not obtained. (5)

QUESTION 6 [10]

6.1 May an attorney consult with his/her own client in a civil case while that client is being cross-examined? Discuss briefly. (3)

6.2 May an attorney allow a secretary to consult with clients and take instructions during his/her absence? Discuss briefly. (4)

6.3 May an attorney under any circumstances divulge information given by his/her client in confidence? Discuss briefly. (3)

QUESTION 7 [9]

You are consulted by a poor client who has a substantial claim for damages as the result of an assault committed on him. He does not have funds to pay your fees but appears to have a good case. Advise your client as to how you can act for him in his action for damages and on what basis you can be remunerated, if at all.

- DIE EINDE -

- THE END -