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 nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druip.

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.
### NOTES:

1. The length of answers and the amount of details should be based on the number of marks awarded.
2. Answers will be assessed with due regard to the draftsmanship displayed.

### QUESTION 1

A private company sells its main business to a business trust.

1.1 Describe the parties, the signatories and their authority; (4)

1.2 Draft the agreement of sale with special reference to legal requirements. Omit clauses relating to payment and those not specifically related to the sale of a business e.g. domicile, notice, non-variation, etc. but include a breach clause. (26)

### QUESTION 2

List five contracts that must be in writing to be valid.

### QUESTION 3

You are instructed by a client to prepare a contract which deals with the use of computer equipment. The contract contains a lot of technical details which few people will have specialised knowledge of and only a person with such specialised knowledge will be able to interpret, understand and determine the parties' rights and obligations.

Draft the clause in the agreement which in your opinion will provide for the resolution of disputes between the parties, bearing in mind that a continued working relationship between them is essential.

### NOTAS:

1. Die lengte van die antwoord en die hoeveelheid detail hang af van die aantal punte.
2. Antwoorde word beoordeel met in-agneming van die opstelwerk.

### VRAAG 1

'n Privaatmaatskappy verkope sy hoof-besigheid aan 'n saketrust.

1.1 Beskryf die partye, die ondertekenaars en hulle magtiging; (4)

1.2 Stel die koopkontrak op sodat dit aan toepaslike reg voldoen. Laat die betalingklousule weg asook bepalings wat nie spesifiek die verkoop van 'n besigheid raak nie soos domisilie, kennis-gewings, voorwaardes en wysigings maar sluit kontrakbreuk in. (26)

### VRAAG 2

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

### VRAAG 3

U kry opdrag om 'n kontrak aangaande rekenaartoerusting op te stel. Die kontrak bevat baie tegnieke besonderhede waarvan min mense deskundige kennis het. Slegs 'n persoon met deskundige kennis sal die partye se regte en verpligtinge kan ontleed, verstaan en bepaal.

Stel 'n klousule op wat na u mening voorsiening sal maak vir die oplos van geskille tussen die partye. Hou in gedagte dat die partye moet aanhou saamwerk.
QUESTION 4

You are uncertain whether a particular course of conduct would be ethical. Name five authorities you would consult.

QUESTION 5

Before the start of a criminal trial in which you will represent the accused, you discover that the magistrate is the mother of the complainant. How would you apply the applicable rules of conduct and what will you do if you are unsuccessful?

QUESTION 6

Should the Court strike off an attorney who:

6.1 Makes a false affidavit; or
6.2 Is convicted of driving under the influence; or
6.3 Makes use of a forged driver's licence?

QUESTION 7

What makes a letter “without prejudice”? What is the effect?

QUESTION 8

Where and how does one register a trust?

QUESTION 9

You negligently allow a claim for damages to prescribe. What is the effect of prescription? What should you advise your client; and what can you do in regard to your own position?

QUESTION 10

How can marriages be contracted and what are the possible marital regimes? What, briefly, are the proprietary effects?
QUESTION 11

In a civil trial involving a motor collision the Court finds that your client A suffered damage of R90 000 but was 40% negligent. The defendant was 60% negligent and his damage was R100 000. What is the net effect? You contracted with A that your fee would be 20% of what he recovers. What is your fee? Show all calculations.

QUESTION 12

What work may under the Attorneys’ Act only be done by an attorney in the expectation of fee, gain or reward?

QUESTION 13

You are consulted by a lady who is married out of community of property. Her husband who is in possession of most of her assets, is sequestrated. Advise her of the effects under the Insolvency Act and of possible remedies.