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 toegeskoon word.
3. Waar nodig, moet kandidate hulle eie feite versin.
4. Skryf asseblief slegs in pen op die regter Kantse bladse.
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 kwalificeer 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.
NOTAS:
1. Die lengte van die antwoord en die hoeveelheid detail hang af van die aantal punte.
2. Antwoorde word beoordeel met in agreming van die opstelwerk.

VRAAG 1 [4]
Beskryf die volgende partye tot 'n kontrak:

1.1 'n Persoon 16 jaar oud;
1.2 'n Eggenoot in 'n gewoontereg huwelik;
1.3 'n Persoon wat namens 'n ander optree;
1.4 iemand wat optree vir 'n te stigte maatskappy.

VRAAG 2 [17]
A en X het hulself verbind as borge vir bedrage wat B en C skuld. Stel 'n vrywaring deur B ten gunste van A en X op. (Laat algemene klausules weg soos domisilie, kennis, wysigings).

VRAAG 3 [20]
U tree op vir XYZ (Edms) Bpk wat 'n winkelsentrum in Durban het. A en B, wat in vennootskap as Easy Finance sake doen, huur 200 vierkante meter by u klient vir 'n tydperk van vyf (5) jaar teen 'n ooreengekome R10.00 per vierkante meter wat teen 10% p.jr. eskaler. Die huurder verlang 'n opsie om na afloop van die eerste tydperk van 5 jaar nog 5 jaar aan te bly. By ooreenkoms gaan die huurgeld in die verlengde tydperk steeds teen 10% per jaar eskaler.

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 [4]
How would you describe the following parties to a contract?

1.1 A person aged 16;
1.2 A spouse in a customary marriage;
1.3 A person acting on behalf of another;
1.4 A person acting for a company to be incorporated.

QUESTION 2 [17]
A and X have bound themselves as sureties for debts owing by B to C. Draft an indemnity by B in favour of A and X. Omit general clauses such as domicile, notices, variations, etc.

QUESTION 3 [20]
You act for XYZ (Pty) Limited which owns a shopping centre in the heart of Durban. A and B, trading in partnership as Easy Finance have agreed to rent two hundred square metres of retail space from your client for a period of five (5) years, at an agreed rental of R10.00 per square metre escalating at 10% p.a. for the period of the lease. The tenant requires the option to remain in occupation for a further period of five (5) years upon the expiry of the initial lease period. By agreement the rental shall continue to escalate by 10% p.a. compounded during the option period.
3.1 How must you cite the landlord and the tenant in the lease for it to be binding on both parties? Use your own facts where necessary. (4)

3.2 Draft the clause in the lease which makes provision for the payment of the rental and the escalation thereof during the initial lease period. Use your own facts where necessary. (5)

3.3 Draft the clause in terms whereof the tenant is granted an option to renew the lease for a further period of five years. (4)

3.4 Assume that the landlord is prepared to grant the option to renew but it is not prepared to bind itself to fixed escalation of rental during the option period. Draft the option clause without a fixed escalation that will be binding on the parties. (7)

VRAAG 4 [10]

4.1 What does a Law Society require from an attorney who needs a first Fidelity Fund Certificate in order to practise for own account? Does the Society/Act impose further conditions? (7)

4.2 What are the effects of failing to renew a Fidelity Fund Certificate? (3)

VRAAG 5 [9]

From an ethical point of view:

5.1 What should an attorney do who finds that his/her evidence is required in a civil trial in which he/she was due to appear for a party? (3)

5.2 What information obtained by an attorney is not subject to attorney-client privilege? (6)
VRAAG 6

'n Kliënt verlang dat u 'n skuld invorder wat skynbaar verjaar het. Wat vra u hom om sekere wees dat dit wel verjaar het? Hoe verduidelik u die gevolge van verjaring; of u verder kan optree; die risiko's van verdere optrede en die beste praktiese benadering?

VRAAG 7

Skryf kort nota's oor:

7.1 Voor-inlywingskontrakte ingevolge die Maatskappywet 2008. (11)

7.2 Die handelingsbevoegdheid van 'n eggenoot binne gemeenskap van goedere kragtens die Wet op Huweliksgoedere, 1984. (9)

7.3 Eise teen insolvente boedels. (5)

VRAAG 8

Die hof bevind in 'n siviele verhoor dat u kliënt A R100 000 skade gely het en 50% nalatig was, terwyl die Verweerder R90 000 skade gely het en ook 50% nalatig was. Wat is die netto effek en welke kostebevel sal die hof maak?

QUESTION 6

A client requires you to collect a debt which on the face of the documents has prescribed. What questions will you ask the client to be sure that the claim has prescribed? How do you explain to client: the effects of prescription; whether you may proceed; the risk involved and the best practical approach?

QUESTION 7

Write short notes on:

7.1 Pre-incorporation agreements under the Companies Act, 2008. (11)

7.2 The capacity of a spouse married in community of property to contract under the Matrimonial Property Control Act, 1984. (9)

7.3 Claims against insolvent estates. (5)

QUESTION 8

The Court finds in a civil trial that in a motor collision your client, A, suffered damages of R100 000 but was 50% negligent. The defendant's damage was R90 000 and negligence also 50%. What is the net effect and what order for costs will be made?