

**BWE1501**
 May/June 2016
 Mei/June 2016

BUSINESS PRACTICE AND WORKPLACE ETHICS
BESIGHEIDPRAKTYK EN WERKSPEKETIEK

 Duration 2 Hours
 Tydsduur 2 Uur

 100 Marks
 100 Punte
EXAMINERS / EKSAMINATORE
 FIRST / EERSTE MS/ME S MAHOMED
 SECOND / TWEEDE PROF M SLABBERT

Use of a non-programmable pocket calculator is permissible.
Gebruik van 'n nie-programmeerbare sakrekenaar is toelaatbaar

Closed book examination
Toeboekeksamen

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This paper consists of 16 pages
Hierdie vraestel bestaan uit 16 bladsye

- 1 Answer ALL the questions
 - 2 Read the questions VERY CAREFULLY before answering them
 - 3 Use a BLUE or a BLACK PEN when you answer the questions on the EXAMINATION PAPER PLEASE DO NOT USE A PENCIL WHEN YOU ANSWER THE QUESTIONS
 - 4 You may use a calculator when answering this examination paper
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- 1 Beantwoord AL die vrae.
 - 2 Lees die vrae BAIE AANDAGTIG deur voordat u dit beantwoord.
 - 3 Gebruik 'n BLOU of 'n SWART PEN wanneer u die vrae op die EKSAMENVRAESTEL BEANTWOORD. MOET ASSEBLIEF NIE 'N POTLOOD GEBRUIK WANNEER U ANTWOORD NIE.
 - 4 U mag 'n sakrekenaar gebruik in die beantwoording van hierdie vraestel.

[TURN OVER]
 [BLAAI OM]

THIS PAPER CONSISTS OF THREE SECTIONS
HIERDIE VRAESTEL BESTAAN UIT DRIE AFDELINGS:

ALL THREE SECTIONS ARE COMPULSORY AND YOUR ANSWERS TO THE
QUESTIONS MUST BE WRITTEN DIRECTLY ON THE EXAMINATION PAPER

AL DRIE AFDELINGS IS VERPLIGTEND EN U ANTWOORDE OP DIE VRAE MOET
DIREK OP DIE VRAESTEL GESKRYF WORD.

SECTION A THE LEGAL PROFESSION 40 MARKS
AFDELING A: DIE REGSBEROEP: 40 PUNTE

SECTION B THE LAW FIRM 10 MARKS
AFDELING B: DIE REGSFIRMA: 10 PUNTE

SECTION C ETHICAL CONSIDERATIONS 50 MARKS
AFDELING C: ETIESE OORWEGINGS: 50 PUNTE

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[BLAAI OM]

**SECTION A: THE LEGAL PROFESSION
AFDELING A: DIE REGSBEROEP**

QUESTION 1 / VRAAG 1

Fill in the missing word/s in the sentences below. Only write the correct word/s required to complete the sentence. Do not re-write the whole sentence.

- 1.1 The _____ is the professional body that regulates attorneys.
- 1.2 Trust money belongs to the _____.
- 1.3 A practicing attorney must be in possession of a _____ in order to practice for his or her own account.
- 1.4 Advocates may only share fees with _____.
- 1.5 Only advocates and _____ can represent clients in the High Court.

[10]

Vul die ontbrekende woord(e) in die onderstaande sinne in. Skryf net die korrekte woord(e) om die sin te voltooi. Moenie die hele sin oorskryf nie.

- 1.1 Die _____ is die professionele liggaam wat die prokureursberoep reguleer.
- 1.2 Trustgeld behoort aan die _____.
- 1.3 'n Praktiserende prokureur moet in besit wees van 'n _____ om vir sy/haar eie rekening te praktiseer.
- 1.4 Advokate mag net foie deel met _____.
- 1.5 Net advokate en _____ mag kliënte in die Hoë Hof verteenwoordig.

[10]

[TURN OVER]
[BLAAI OM]

QUESTION 2 / VRAAG 2

Please indicate whether each of the following statements is true or false. You need only write down the correct answer (for example "true" or "false") in the spaces provided.

Dui aan of elk van die volgende stellings waar of vals is. Jy hoef slegs die regte antwoord (byvoorbeeld "waar" of "vals") neer te skryf in die spasies voorsien.

2 1	Advocates accept instructions directly from the public Advokate ontvang instruksies direk van die publiek af.	2 1	
2 2	It is impossible to practice as an attorney and an advocate at the same time Dit is onmoontlik om as prokureur en advokaat gelyktydig te praktiseer.	2 2	
2 3	A paralegal may appear on behalf of another person in the Magistrates Court 'n Pararegspraktisyn mag namens iemand anders in die Landdroshof verskyn.	2 3	
2 4	Interest earned on trust money belongs to the attorney Rente verdien op trustgeld behoort aan die prokureur.	2 4	
2 5	Attorneys may not share any of their fees by way of partnership, commission, allowance or in any other manner with someone who is not an admitted attorney in South Africa Prokureurs mag nie enige foie deel wat verkry is deur middel van 'n vennootskap, kommissie, toelaag of enige ander manier, met iemand wat nie 'n toegelate prokureur in Suid-Afrika is nie.	2 5	

[10]

[TURN OVER]
[BLAAI OM]

QUESTION 3 / VRAAG 3

Select the correct answer from Column B which matches the description in Column A and write down the correct answer in the spaces provided below. You need only write down the correct letter from Column B. Please don't write out the entire answer.

Kies die korrekte beskrywing uit KOLOM B wat ooreenstem met die term in KOLOM A en skryf die korrekte antwoord neer in die spasies hieronder. Skryf net die korrekte letter neer. Moet asseblief nie die hele beskrywing herhaal nie.

COLUMN A / KOLOM A	COLUMN B / KOLOM B
3.1 General Council of the Bar of South Africa Algemene Balieraad van Suid-Afrika	A Business money Besigheidsgeld
3.2 Money used to pay overheads or divided as profit between partners at a law firm Geld wat gebruik word om oorhoofse kostes te dek en as wins deur die vennote gedeel word.	B Trust money Trustgeld
3.3 Advance deposits by clients to cover legal fees and expenses at a law firm Deposito's deur kliënte wat vooruit gemaak word om alle regsfooie van die regsfirma te dek.	C Candidate attorney Kandidaat-prokureur
3.4 Trainee attorney 'n Prokureur wat nog opgelei word	D Paralegal Pararegspraktisyn
3.5 Does not have a law degree Het nie 'n regsgraad nie	E Advocate Advokaat

3.1 _____ (2)

3.2 _____ (2)

3.3 _____ (2)

3.4 _____ (2)

3.5 _____ (2)

[10]

[TURN OVER]
[BLAAI OM]

QUESTION 4 / VRAAG 4

Mr Dhlamini wants to sell his car to Mr Roberts for R190 000 and asks his attorney to draft the contract of sale of the car. His attorney is willing to do so but requires a deposit of R20 000. After receiving the deposit of R20 000, the attorney drafts the contract of sale. Both Mr Dhlamini and Mr Roberts are happy with the contract and sign it. The contract requires that Mr Roberts must deposit the R190 000 into the attorney's trust account before Mr Dhlamini will sign the necessary documents to transfer the car to Mr Robert's name. After Mr Roberts pays the R190 000 to the attorney, the car is transferred to Mr Robert's name. The contract states that Mr Dhlamini is responsible for all the legal costs. The attorney delivers an invoice to Mr Dhlamini for R6 800 in legal fees and R200 for expenses (telephone calls and postage).

Mnr Dhlamini wil sy motor aan Mnr Roberts verkoop vir R190 000 en vra sy prokureur om die koopooreenkoms vir die motor op te stel. Sy prokureur stem in om dit te doen maar vereis 'n deposito van R20 000. Nadat hy die R20 000 ontvang het, stel die prokureur die koopooreenkoms op. Beide Mnr Dhlamini en Mnr Roberts is gelukkig met die koopooreenkoms en onderteken dit. Die kontrak vereis dat Mnr Roberts R190 000 in die prokureur se trustrekening moet betaal voordat Mnr Dhlamini die nodige dokumente sal onderteken om die motor in Mnr Roberts se naam oor te dra. Nadat Mnr Roberts die R190 000 betaal het aan die prokureur word die motor oorgedra in Mnr Roberts se naam. Die kontrak bepaal verder dat Mnr Dhlamini verantwoordelik is vir all regskoste. Die prokureur lewer 'n rekening aan Mnr Dhlamini vir R6 800 ten aansien van regsfooie en R200 ten aansien van uitgawes aangegaan (telefoonoproepe en posgeld).

- 4.1 What is the total amount of money the attorney received on trust? Give reasons for your answer (3)
Hoeveel geld in totaal het die prokureur op trust ontvang? Gee redes vir jou antwoord. (3)

[TURN OVER]
[BLAAI OM]

4 2 What is the total amount the attorney is entitled to? Give reasons for your answer (4)
Wat is die totale bedrag waarop die prokureur geregtig is? Gee redes vir jou antwoord. (4)

4 3 What is the final amount the attorney must pay out to Mr Dhlamini? Give reasons for your answer (3)
Wat is die finale bedrag wat die prokureur aan Mnr Dhlamini moet uitbetaal? Gee redes vir jou antwoord. (3)

[10]

TOTAL SECTION A = 40
TOTAAL: AFDELING A = 40

**SECTION B: THE LAW FIRM
AFDELING B: DIE REGSFIRMA**

QUESTION 5 / VRAAG 5

- 5 1 List and explain the possible business forms that a law firm may take (6)
Lys en verduidelik die moontlike besigheidsvorms wat 'n regsfirma kan
aanneem. (6)

[TURN OVER]
[BLAAI OM]

5 2. Briefly discuss the role of a paralegal in a law firm (4)
Bespreek kortliks die rol van 'n pararegspraktisyn in 'n regsfirma. (4)

TOTAL SECTION B = 10
TOTAAL: AFDELING B = 10
[TURN OVER]
[BLAAI OM]

**SECTION C: ETHICAL CONSIDERATIONS
AFDELING C: ETIESE OORWEGINGS**

QUESTION 6 / VRAAG 6

Complete the following sentences in the spaces provided below

- 6 1 Ethics reflects on the _____ of individuals and of societies as a whole (2)
- 6 2 Deontological ethics holds that there are certain _____ that should determine our moral decisions (2)
- 6 3 Utilitarianism is concerned with the _____ of actions (2)
- 6 4 Virtue ethics argues that the kind of _____, rather than a narrow focus on your actions, is important in moral decision making (2)
- 6 5 A civil claim for damages may result when lawyers and/or paralegals act in contrary to the scope of the _____ (2)

Voltooi die volgende sinne in die spasies voorsien:

- 6.1 Etiek besin oor die _____ van individue en gemeenskappe. (2)
- 6.2 Deontologiese etiek bepaal dat daar sekere _____ is wat ons morele besluite moet bepaal. (2)
- 6.3 Utilisme is begaan oor die _____ van optrede. (2)
- 6.4 Deugetiek redenaar dat tipe _____, eerder as om eng te konsentreer op jou optrede. (2)
- 6.5 'n Siviele eis vir skadevergoeding kan volg as regsgeleerdes en/of pararegspraktisyns optree buite hulle _____. (2)

[10]

[TURN OVER]
[BLAAI OM]

QUESTION 7 / VRAAG 7

- 7 1 "Paralegals are often responsible for trust accounting functions " Explain some of the tasks a paralegal may be assigned with regard to clients' trust accounts (6)
"Pararegspraktisyns is dikwels verantwoordelik vir trustrekenings".
Verduidelik sommige van die take wat 'n pararegspraktisyn mag doen rakende kliënte se trustrekenings. (6)

QUESTION 8 / VRAAG 8

- List four instances or circumstances under which confidential information can be divulged (4)
Lys die vier gevalle waar vertroulike inligting openbaar gemaak kan word. (4)

[10]

QUESTION 9 / VRAAG 9

Explain the following concepts
Verduidelik die volgende konsepte:

- 9 1 Confidential and privileged information (4)
Konfidensiële en geprivilegeerde inligting (4)

- 9 2 When is an action generally regarded as unethical? (6)
Wanneer word 'n handeling in die algemeen as oneties beskou? (6)

[TURN OVER]
[BLAAI OM]

[10]

QUESTION 10 / VRAAG 10

Cynthia (a paralegal) works at a law firm. While reviewing a list of new clients she notices that the law firm is instituting an action against a company where her father is a director. What must Cynthia do (if anything)? Give reasons for your answer and define the principle that you are using. (10)

Cynthia ('n pararegspraktisyn) werk by 'n regsfirma. Terwyl sy na 'n lys van nuwe kliënte kyk, merk sy op dat die regsfirma 'n saak aanhangig gemaak het teen 'n maatskappy waarvan haar pa 'n direkteur is. Wat moet Cynthia doen (indien enige iets)? Gee redes vir jou antwoord en definieer die beginsel wat jy gebruik. (10)

[TURN OVER]
[BLAAI OM]

[10]

QUESTION 11 / VRAAG 11

Thato is a paralegal at a law firm. While photocopying certain documents from a case file, she comes across very scandalous evidence regarding one of the firm’s clients. She takes a picture of the evidence with her cell phone and reveals the evidence to a family member who promises to keep the information a secret.

Thato is ’n pararegspraktisyn by ’n regsfirma. Terwyl sy sekere dokumente in ’n regsleër fotostateer, kom sy af op baie skandalige bewyse rakende een van die firma se kliënte. Sy neem ’n foto van die bewysmateriaal met haar selfoon en wys dit aan ’n familielid wat belowe om dit geheim te hou.

- 11.1 Please explain whether the principles of attorney – client privilege have been violated by Thato. Provide reasons for your answer. (5)
- Verduidelik of die beginsels van prokureur-kliënt privilegie geskend is deur Thato. Gee redes vir jou antwoord. (5)**

11 2 Has Thato acted unethically? Please provide reasons for your answer (5)
Het Thato oneties opgetree? Gee redes vir jou antwoord. (5)

[TURN OVER]
[BLAAI OM]

[10]

TOTAL SECTION C = 50
TOTAAL: AFDELING C = 50

TOTAL FOR THIS PAPER: [100]
TOTAAL VIR HIERDIE VRAESTEL: [100]