



COMPETENCY-BASED ADMISSION EXAMINATION SYLLABUS 2021 *(2021 Issue)*

January 2021 (Revision 01)

In this examination candidates must have a sound knowledge of substantive law and be able to apply it regarding matters covered by this syllabus.

2021 EXAMINATION DATES (Please refer to the LPC registration form)

17 and 18 March 2021

17 and 18 August 2021

The registration fee is currently: R345,00 (incl. VAT), irrespective of the number of papers to be written.

THE EXAMINATION SYSTEM

The guidelines for the admission examination (competency-based assessment) are set out in terms of the Rules of the Legal Practice Act 28 of 2014 (Rules 21 – 27), Department of Justice and Constitutional Development, Notice 401 of 2018, National forum on the Legal Profession.

THE EXAMINATION FORMAT

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answer book during this period.

The areas of practice to be assessed remain much the same.

First paper

High court procedure; Magistrate's court procedure.

This paper is written on the first day of the examinations usually in the morning session approximately from 09:00.

Second paper

The winding up and distribution of deceased estates (drafting of wills, succession).

This paper is written on the first day of the examinations usually in the afternoon session approximately from 14:00.

Third paper

The practice, duties, ethics, and functions of a Legal Practitioner.

This paper is written on the second day of the examinations in the morning session, approximately from 09:00.

Fourth paper

Bookkeeping for Legal Practitioners.

This paper is written on the second day of the examinations in the afternoon session approximately from 14:00.

EXAMINATION CRITERIA

A candidate who attains 50% or more in a paper will be deemed to have passed and subject to special circumstances a candidate may have to attend an oral. Candidates who achieve between 40% and 49% in any of the papers will be permitted to do an oral in respect of that paper. Candidates who attain less than 40% in any of these papers will be deemed to have failed the paper and will not be given an oral.

REMARK

Candidates who are dissatisfied with their marks in any section of the examination may have their paper remarked before orals are conducted if:

1. they apply in writing for a remark to the Legal Practice Provincial Council concerned within one week of the results of the examination becoming available;
2. they pay a remark fee equivalent to twice the fee payable for the section of the examination in which the remark is requested. If the remark is successful in that the status improves (e.g. failed and after remark is eligible for an oral) this fee will be refunded.

REGULATIONS

1. A candidate may complete the four phases of the examinations in any sequence.
2. The golden thread of ethics runs through the whole examination and it can never be considered finished before the whole examination has been completed. Questions concerning ethical matters pertaining to the practise of Legal Practitioners may also be asked through-out the allocated examination fields as set out hereunder.

COMPOSITION OF THE PAPERS

1. The Legal Practice Council appointment of examiners.
2. Examiners and experts in the various fields set the papers. Moderators, appointed from the ranks of the examiners, check, discuss, and approve these papers and review the marked papers to ensure Quality assurance and reasonableness of the marks allocated.

PRACTICAL ORIENTATION

Although the emphasis in the examination is on practical aspects, and the candidates' understanding of the substantive law and its practical application in practice, this can never be totally separated from a thorough knowledge of the law, the Acts with regulations and the rules of court.

ALLOCATION OF MARKS

The allocation of marks is a good indication of the detail required. Candidates should in the examinations consider the question paper and plan for each section accordingly.

GENERAL

1. Unless informed to the contrary, all questions should be answered with reference to current legislation, Regulations, Rules, etc.
2. Copies of previous papers and answer guides are available from the Legal Education and Development [L.E.A.D] website www.LSSALEAD.org.za for free download.
3. The Legal Practice Council registration form has the latest administrative information including the dates and times of examinations and these are available on their website: www.LPC.org.za.

**GUIDE TO THE NATURE AND SCOPE OF THE
LEGAL PRACTITIONER'S ADMISSION EXAMINATION
(SYLLABUS)**

1. INTRODUCTION

1.1 In terms of the Rules of the Act, for the examinations conducted in respect of:

High court

Magistrate's court

Criminal Procedure

Motor Vehicle Accidents

Administration of Estates

Practical Legal Practitioner's bookkeeping

The practice, functions, and duties of a Legal Practitioner

1.2 At present the examination is conducted as follows:

First paper: High court, Magistrate's court, Motor vehicle accidents, and Criminal procedure. This paper is set as a three-hour paper and counts 100 marks.

Second paper: Administration of estates. This paper is set as a one-and-a-half-hour paper but two hours are allowed for completing it to allow candidates to read the questions carefully before answering them. This paper counts 100 marks.

Third paper: General Legal Practitioner's practice. This paper is set as a one-and-a-half-hour paper but two hours are allowed for completing it to allow candidates to read the questions carefully before answering them. The paper counts 100 marks.

Fourth paper: Legal Practitioner's Bookkeeping. This paper is set as a one-and-a-half-hour paper but two hours are allowed for completing it. The paper counts 100 marks.

1.3 A candidate may complete the four papers of the examination in any sequence.

1.4 In general terms, candidates are tested in the written paper on their ability to draft and record matters related to the fields of practice set out above. It is obvious that they cannot be tested without also testing

their ability to apply the relevant substantive law. The written test is fundamental to the success or failure of the candidate. Candidates who have to present themselves for oral examinations will be tested on their verbal presentation of legal knowledge. Special attention is given to the practical application of the particular fields of law, and to candidates' knowledge and insight into the ethical standards applicable to a Legal Practitioner's practice.

The examinations are conducted with a view to establishing whether candidates meet these standards. Examination questions may be set with more than one object in view. In a single question, candidates may be tested on their knowledge of the rules and practice in the courts in whose jurisdiction they are examined and, simultaneously, they may be tested on their ability to examine and analyse facts placed before them, to apply the substantive law to the facts and to draft documents logically and coherently based on the facts that are relevant.

Similarly, a question may test the ability of the candidates to find the applicable law by using facilities such as encyclopaedias, textbooks, journals, indices and the like (whether by electronic means or hard copies), and to reduce such material into an effective letter, opinion or argument before a court or other tribunal. Candidates are also expected to have reasonable practical knowledge of proper procedures to be applied in a well-run office.

Questions on Constitutional Law Practise can also be asked under any of the allocated examinations fields set out hereunder.

2. NATURE OF THE EXAMINATION: OBJECTIVES

The content of the syllabus (and the nature of the examination) aims at ensuring that candidates have certain skills and experience. The level expected is that of a newly admitted Legal practitioner in a general medium-sized firm.

This implies the following:

- 2.1** Candidates must have a general understanding of the role of a Legal Practitioner and an officer of court, of the role of the legal profession in society, of the ethics of the profession and an ability to recognise conflicts of interest and ethical difficulties. Candidates will be required to know the rules of Legal Practice Council, in as far as they relate to professional conduct.
- 2.2** Candidates must be competent and have adequate experience in the basic skills and techniques of Legal Practitioners and for that purpose:

- be able to handle facts and apply legal principles to factual situations;
- be able to research legal problems and to use the sources of law;
- have knowledge of the practical aspects of advocacy (the arguing of elementary cases before courts and tribunals and the effective presentation of written legal arguments), which shall include knowledge of negotiation (e.g. to settle the terms of an agreement, out of court settlements, finalising disputes without recourse to the courts), the preparation for and the conduct of a trial in the high court, the magistrate's court and other tribunals, the gathering and preparation of evidence and the procedures relating to the calling of witnesses in civil and criminal courts;
- understand office procedures and routines, including the keeping of Legal Practitioner's books and the preparation and rendering of bills of cost and accounts and administer the affairs of clients;
- be experienced in the drafting of documents (straightforward contracts, wills, pleadings, opinions, briefs to counsel and, in particular, pleadings in the Magistrate's court and, where relevant, in the High court);
- be able to communicate effectively with clients, colleagues, and officials orally and in writing.

The above objectives presuppose that candidates have adequate knowledge of the relevant principles and provisions of substantive law.

3. ANALYSIS OF VARIOUS PAPERS

The various papers test the following skills and knowledge.

3.1 Paper 1: Court procedure

High court

The practical application of the High Court Act and rules.

The ability to draft notices of motion, affidavits and causes of action for a summons, and other notices and documents in respect of which no prescribed forms exist; draft instructions to counsel on pleadings; conduct all types of proceedings in the high court and write letters and opinions.

Magistrate's court

The practical application of the Magistrates' Court Act and rules.

The ability to draft applications, affidavits, summons, pleadings and other notices and documents where prescribed forms exist; conduct all types of proceedings in the Magistrate's court and write letters and opinions.

Motor vehicle accidents

Candidates should know all aspects of the Multilateral Motor Vehicle Accidents Fund Act 93 of 1989 (as amended), as well as The Road Accident Fund Act 56 of 1996 the regulations promulgated in terms of this Act, as well as the case law, concerning the rights of injured persons and dependants and the procedure relating to the formulation, computation and institution of claims against the Fund. As candidates are aware, significant changes to the relevant legislation are pending but are not yet effective. Candidates must ensure that they are aware of the changes as and when they come into operation, questions relating thereto may be included in examination papers.

Criminal procedure

Aspects regarding the role of the prosecutor, investigation of crime and the various methods to secure the accused's attendance in court.

The procedure relating to a criminal trial, including applications for bail, the procuring of evidence and a general working knowledge of the Criminal Procedure Act.

Without derogating from the above in terms of having to know all the procedures relating to a criminal trial, delegates are advised to pay special attention to the following sections in the said Act:

Sections - 3, 6, 20, 23, 24, 26, 27, 30, 34, 35, 37, 39, 40, 49, 50, 54, 55, 56, 57, 59, 60, 62, 65, 66, 73, 103, 112, 113, 114, 115, 123, 124, 150, 195, 196, 201, 217, 220 and 297.

3.2 Paper 2: Estates

A general working knowledge of the Administration of Estates Act and its regulations including the drafting of estate accounts, drafting and execution of wills, including testamentary trusts, the application of the law of testate and intestate succession, a knowledge of the principles of estate duty and capital gains tax relating to deceased estates and a rudimentary knowledge of estate planning.

3.3 Paper 3: Professional Ethics

Professional ethics figure very prominently in this section. This term means all the rules of professional conduct appertaining to a Legal Practitioner in his professional life - as an officer of court, in his relationship with his client, colleagues and his staff - also extra-professionally while he remains in the profession.

Sources:

Van Zyl CH IV and Visser J "*Legal Ethics, Rules of Conduct and the Moral Compass - Considerations from a Law Student's Perspective*" PER / PELJ 2016(19) - DOI <http://dx.doi.org/10.17159/1727-3781/2016/v19ni0a795>.

P Ellis BA(Hons) (Latin) LLB (Pret) LLD (UPE) Senior Advocate of the High Court of South Africa; A T Lamey BLC LLB (Pret) LLM (SA) HDIP TAX (UJ) Advocate of the High Court of South Africa, (Formerly Attorney of the High Court of South Africa); L Kilbourn, B Com (Law) LLB B Com Hons (Econ) M Com (Business Management) (RAU), Attorney, Notary and Conveyancer of the High Court of South Africa), *The South African Legal Practitioner*, November 2020, Product developer: Janet Labuschagne, LexisNexis South Africa.

Optional reading:

Arno Botha , *Law Society of South Africa Practice Manual, The / Regsorde van Suid-Afrika Praktykshandleiding / Die*, previously known as the Association of Law Societies Practice Manual / Vereniging van Prokureursordes Praktykshandleiding, LexisNexis South Africa.

The second broad subject that is included in this section is the **drafting of the following documents:**

- Deeds of sale - movable and immovable goods
- Partnership agreement
- Suretyship - reference to relevant Act
- Acknowledgement of debt
- Cession and assignment
- Option; right of pre-emption
- Sale of business
- Lease of fixed property
- Letter of demand
- Pledge
- Cancellation of agreement
- Indemnity

The paper on general practice does not stand in complete isolation to the content of other papers in the examination. For example, a question on ethics may relate to a situation arising during litigation and the legal opinion may be one relating to magistrate's court procedures.

Finally, the purpose of the paper is to cover subjects or topics that do not strictly belong to any other sections on which the examination is conducted but are very important in a Legal Practitioner's practice.

The following are the prescribed Acts and Regulations:

Legal Practice Act 28 of 2014, as amended, and Regulations including Chapter on the Legal Practitioners Fidelity Fund Prescription Act 68 of 1969 as amended, terms of prescription, stay of prescription, extinctive and acquisitive prescription.

Alienation of Land Act 68 of 1981, as amended, only sections 2 and 28(2).

Matrimonial Property Act 88 of 1984, as amended, especially s15.

VAT Act 89 of 1991, as amended, liability for and payment of VAT, VAT implications of various contracts, VAT, and the drafting of agreements.

Insolvency Act 24 of 1936, as amended, proving of claims, impeachable transactions and selected sections relating to the appointment of trustee/liquidator.

Companies Act 71 of 2008, as amended, selected sections regarding formation of company, transfer of shares, ss19/20, s44, s112 and ss76/7.

Trust Property Control Act 57 of 1988, as amended, procedure for registering a trust, difference between ordinary trust and discretionary trust.

Justices of the Peace and Commissioners of Oaths Act 16 of 1963, as amended, how to administer the oath.

Contingency Fees Act 66 of 1997, as amended.

National Credit Act 34 of 2005, as amended.

Consumer Protection Act 2008, as amended.

Labour Relations Act 66 of 1995, as amended.

3.4 **Paper 4: Legal Practitioner's bookkeeping**

This entails a test in respect of the practical skills necessary for the keeping of Legal Practitioner's books of account.

Candidates must show a thorough knowledge of the concept of trust money and of the essential requirements of the modern double entry bookkeeping system as applied to Legal Practitioner's bookkeeping, the functions of the various books of account and must have sufficient practical knowledge of the supervision of bookkeeping to enable them to maintain the books of account required in a Legal Practitioner's office. They must be able to apply accepted measures, controls, and ethical standards to bookkeeping and financial matters.

Questions on VAT may be included in this paper.

Please note: No bookkeeping paper will be provided in the answer books. Candidates must draw the necessary columns for the various books of account required. Pocket calculators may be brought along and utilised for this paper.

4. **LEGISLATION**

Apart from the other relevant Acts already mentioned above, the undermentioned additional Acts, **as amended**, including rules and regulations where applicable, are relevant in all papers but particularly in Legal Practitioner's Practice.

- Apportionment of Damages Act, 34 of 1956
 - Justices of the Peace and Commissioners of Oaths Act, 16 of 1963
 - National Credit Act No 34 of 2005
 - Credit Agreements Act, 75 of 1980 (in as far as it relates to the recovery of goods and the payment of monies owing)
 - Conventional Penalties Act, 15 of 1962
 - Trust Property Control Act 57 of 1988
 - Prescription Act, 68 of 1969
 - Legal Practise Act, 28 of 2014
 - Insolvency Act, 24 of 1936
 - Divorce Act, 70 of 1979
 - Matrimonial Property Act, 88 of 1984
 - Maintenance Act, 23 of 1963
 - Constitution Act, 1996
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- Consumer Protection Act
- Prevention of Illegal Eviction (PIE) and Unlawful Occupation of Land Act No. 19 of 1998
- Basic Conditions of Employment Act 75 of 1997
- Legal Practice Act 28 of 2014.