



<b>FACULTY</b>	FACULTY OF LAW		
<b>DEPARTMENT</b>	PRIVATE AND PROCEDURAL LAW		
<b>SUBJECT</b>	LAW OF PERSONS		
<b>SUBJECT CODE</b>	LPPE 3501		
<b>DATE</b>	JUNE 2020		
<b>DURATION</b>	3 HOURS	<b>MARKS</b>	100

### **SUPPLEMENTARY/SPECIAL EXAMINATIONS**

**EXAMINER:** Mr. P.N SHOOPALA

**MODERATOR:**

*This question paper consists of 3 pages including the cover page.*

***Instructions***

- Read the questions carefully
- **Section A is compulsory and answer any THREE (3) questions from Section B**
- Each question carries 25 marks
- Underline or highlight sources.

### **SECTION A**

**COMPLUSORY [25]**  
**(ANSWER ONLY ONE QUESTION)**

**Question 1**

Maria, a 17-year-old minor, concluded a contract with Mrs King, an adult, to rent a bachelor flat. In terms of the contract Maria must pay Mrs King the exorbitant amount of R3 500 per month rent for the flat. Maria's father was unaware of the contract. When Maria later had difficulty in paying the rent, she telephoned her father and told him about the contract, whereupon he gave her money to pay six months' rent. With reference to case law discuss in detail whether, and if so, under what circumstance, the contract between Maria and Mrs King can be set aside. **[25]**

**SECTION B**

**(ANSWER ANY THREE (3) QUESTIONS) [75]**

**Question 2**

Mr and Mrs van Niekark are married. During their marriage, Mrs Niekark has an affair with Mr Sheya, as a result of which a child is born. With reference to authority and case law, advise Mr Niekark fully on how he should go about to rebut the presumption *pater est quem nuptiae demonstrant*. **[25]**

**Question 3**

Critically analyse the case of *Pinchin v Santam Insurance Co* 1963 (2) SA 254 (W) and its relevance to law of Persons. **[25]**

**Question 4**

**[25]**

**Question 4.1**

Donald, a 17-year old minor, lives and works in Windhoek while his parents live in Keetmanshop. He has a bank account in which his salary is deposited, and he fully supports himself. He rents a flat from Fred and pays his rent monthly by cheque. The last two cheques were dishonoured when they were presented for payment. Donald refuses to pay for the rent because he is a minor and therefore does not have capacity to contract. Fred now approaches you for advice. Advise him with reference to authority. **[15]**

**Question 4.2**

Gehard, a married man, was recently declared a prodigal by the court and was interdicted from administering his estate. He wants to know from you what a prodigal is and what the effect of the order is. Explain these matters to him. **[10]**

**Question 5**

Thembi is seventeen years old. She decides to buy a second-hand car. She visits Mrs Bester, a dealer in second-hand cars. Without the assistance or consent of her guardian, Thembi concludes a contract of sale with Mrs Bester. In terms of the contract, Mrs Bester sells Thembi a car at the discount price of R25 000. The actual value of the car at the time of the conclusion of the contract is R30 000. During the negotiations Thembi tries to represent herself as a major, but it is obvious to Mrs Bester that she is dealing with a minor.

On 20 April, two weeks after the car is delivered to Thembi, she sells it for R20 000. She spends R15 000 of this money on a luxury lounge suite, and the remaining R5 000 she uses to pay for her lodging. She does not pay any of her debt to Mrs Bester. On 3 May, Mrs Bester institutes an action against Thembi. **[25]**

- a) On what basis could Thembi be held liable to Mrs Bester? Explain briefly. **[5]**
- b) At which moment should the extent of the minor's enrichment be calculated? What is that date in the question under discussion? **[5]**
- c) One of the principles that are applied when calculating the extent of the minor's enrichment, is that the minor is liable for the lesser of two specific amounts. Discuss these two amounts? **[10]**

**GOOD LUCK!**

**TOTAL MARKS 100**

---