



COMPETENCY-BASED EXAMINATION FOR ADMISSION AS AN ATTORNEY

SYLLABUS 2023

(March 2023 Issue)

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

2023 EXAMINATION DATES (Please refer to the LPC registration form)

15 and 16 March 2023

23 and 24 August 2023

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

THE EXAMINATION SYSTEM

The guidelines for the competency-based examination for admission as an Attorney 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 answering 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.

Paper 1 – Court Procedures

The practice and procedure in the High Court and courts established under the 'Magistrates' Courts Act, 1944, motor vehicle accident claims, criminal procedure

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

Paper 2 - Wills and Estates

The practice and procedure relating to the winding up and distribution of estates of deceased persons, and the drafting of Wills.

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

Paper 3 – Professional Legal Ethics

The practice, functions and duties of an Attorney, including the ethical duties of an Attorney.

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

Paper 4 - Attorneys' Bookkeeping [legal Accounting]

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 a score from 40% and below 50% 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 qualify for 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 3 days 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 the candidate passes the examination as result of the remark, 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 can never be considered finished before the entire examination has been completed. Questions concerning ethical matters pertaining to the practise of Legal Practitioners may also be asked throughout the allocated examination fields as set out hereunder.

COMPOSITION OF THE PAPERS

1. The Legal Practice Council appoints examiners.
2. Examiners and experts in 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 examination emphasises practical aspects and the candidates' understanding of the substantive law and its practical application in practice, this can never be separated from a thorough knowledge of the law, the Acts with regulations and the rules of court. As new entrants, the basic application of the law in practice is tested.

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 [LEAD] 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
COMPETENCY-BASED EXAMINATION FOR
ADMISSION AS AN ATTORNEY
(SYLLABUS)**

1. INTRODUCTION

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

- High Court Practice
- Magistrate's Court Practice
- Criminal Court Procedure
- Motor Vehicle Accident claims
- Administration of Estates and drafting of wills
- Attorneys' Bookkeeping [Legal Accounting]
- The practice, functions, and duties of a Legal Practitioner

1.2 At present, the examination is conducted as follows:

First paper: Court Procedures

The practice and procedure in the High Court and in courts established under the Magistrates' Courts Act, 1944, motor vehicle accident claims, criminal procedure.

This paper is set as a three-hour paper and counts 100 marks.

Second paper: Wills and Estates

The practice and procedure relating to the winding up and distribution of estates of deceased persons, and the drafting of Wills.

This paper is set as a one-and-a-half-hour paper, but two hours are allowed for completing it to enable candidates to read the questions carefully before answering them.

The paper counts 100 marks.

Third paper: Professional Legal Ethics

The practice, functions and duties of an Attorney, including the ethical duties of an Attorney.

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: Attorneys' Bookkeeping /Legal Accounting]

This paper is set as a one-and-a-half-hour paper, but two hours are allowed to complete it.

The paper counts 100 marks.

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

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. They cannot be tested without also testing their ability to apply the relevant substantive law. 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 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 objective. 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 relevant facts.

Questions on Constitutional Law Practice and Ethical Practice can also be asked under any of the allocated examination 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 basic 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 the court, the legal profession's role in society, the profession's ethics and an ability to recognise conflicts of interest and ethical difficulties. Candidates will be required to know the Legal Practice Council's Code of Conduct as far as they relate to professional conduct.

- ✓ 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 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 - mediation), 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 of accounts and the preparation and rendering of bills of cost and accounts and administering the affairs of clients;
 - ✓ be experienced in drafting 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 substantive law's relevant principles and provisions.

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 following are the key practical skills to be tested:

- the ability to draft
 - ✓ notices of motion;
 - ✓ affidavits and causes of action for a summons,
 - ✓ other notices and documents in respect of which no prescribed forms exist;
 - ✓ instructions to counsel on pleadings;

In addition to the above the following prerequisites practice skills will be tested:

- ✓ Locus standi
- ✓ Cause of action
- ✓ Jurisdiction
- ✓ Form of Proceedings

PART 1: CCP

- conduct all types of proceedings in the high court and write letters and opinions.

Magistrate's court

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

The following are the key practical skills to be tested:

- Action and application procedures on the foundation of the practical application being inclusive of drafting skills as follows:
 - ✓ All types of pleadings in action and motion proceedings;
 - ✓ All pleadings used during those proceedings i.e. particulars of claim, a notice of motion;
 - ✓ All types of affidavits that may be applicable during those proceedings;
 - ✓ All notices that can be issued;
 - ✓ All types of defences that can be raised;
 - ✓ All types of judgments and orders that may be asked for

Motor vehicle accident claims

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 dependents and the procedure relating to the formulation, computation and institution of claims against the Fund.

The following are the key practical skills to be tested:

- The Road Accident Fund Act No. 56 of 1996 specific in issues dealing with future medical treatment as well as non-compliance of claims lodged;
- Locus standi across the board;
- Apportionment of claims;
- Drafting skills specifically pertaining to citations and pleadings;
- The legitimacy of claims;
- All aspects pertaining to damages sustained;
- All aspects pertaining to claim procedures with an emphasis on procedure.

Criminal Court procedure

The following are the key practical skills to be tested:

- 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 general working knowledge of the Criminal Procedure Act No. 51 of 1977, as amended.
- 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 Criminal Procedure Act No. 51 of 1977, as amended
- Search warrants, entering of premises, seizure, forfeiture and disposal of property connected with offences, evidence;
- Court attendance, the conduct of proceedings;
- Arrest, summons, written notice to appear in Court;
- The charge sheets, pleas, request for further particulars of the charge sheet, warning statements, representations, confessions, admissions;

3.2 Paper 2: Wills and Estates

The following are the key practical skills to be tested:

- Drafting of Wills and Testate Succession;
- Intestate Succession;
- Administration of Estates;
- Drafting the Liquidation and Distribution Account;
- Calculation of Estate Duty and Estate Duty Payable;
- Trusts
- Knowledge of estate planning.
- Knowledge on the application in practice of the RELEVANT LEGISLATION:
 - ✓ The Wills Act No. 7 of 1953.
 - ✓ The Intestate Succession Act No. 81 of 1987.
 - ✓ Administration of Estates Act No. 66 of 1965.
 - ✓ Regulations to the Estates Act.
 - ✓ Attorneys, Notaries and Conveyancers Admission Act No. 23 of 1934 (Regulation 910).
 - ✓ Estate Duty Act No. 45 of 1955.
 - ✓ Regulations under the Estate Duty Act No. 45 of 1955: Notice No. R1942 of 23 September 1977 - Annuity Tables.
 - ✓ Trust Property Control Act No. 57 Of 1988.
 - ✓ Maintenance of Surviving Spouses Act No. 27 of 1990.
 - ✓ Recognition of Customary Marriages Act No. 120 of 1998.
 - ✓ Reform of Customary Law of Succession and Regulation of Related Matters Act No. 11 of 2009.
 - ✓ Pensions Fund Act No. 24 of 1956 (Section 37C).
 - ✓ Sub-Division of Agricultural Land Act No. 70 of 1970.

- ✓ The Electronic Communications and Transactions Act No. 25 of 2002 (Schedule 1).
- ✓ The Immovable Property (Removal or Modification of Restrictions) Act No. 94 of 1965 (Section 6).
- ✓ The Matrimonial Affairs Act No. 37 of 1953 (Section 5(3)(b)).

3.3 **Paper 3: Professional Legal Ethics**

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

- In terms of drafting skills, everything about mandate and fee agreements;
- Everything about fees in general;
- The membership requirements with the Legal Practice Council;
- The understanding of ante-nuptial contracts;
- Everything about the classification and applicability of agreements under the Electronic Communications and Transactions Act No. 25 of 2002;
- Dismissals under the Labour Relations Act No. 66 of 1995;
- Insolvency and the requirements pertaining to procedures related to sequestration and liquidation applications.

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

- Deeds of sale - movable and immovable goods
- Skills pertaining to sale agreements of movable and immovable property being inclusive of litigation drafts on such agreements
- Partnership Agreement
- Suretyship - a reference to the 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 an agreement
- Indemnity

Relevance of legislation and the protection it allows, as well as the requirements pertaining to the drafting of contracts in so far as they are applicable, such as the National Credit Act 34 of 2005, the Consumer Protection Act No. 68 of 2008, Financial Intelligence Centre Act 38 of 2001, and Protection of Personal Information Act of 2013.

3.4 **Paper 4: Legal Practitioner's Accounting [bookkeeping]**

This entails a test concerning the practical skills necessary for keeping Legal Practitioner's books of account. This, therefore, entails the following:

Candidates must show a thorough knowledge of the concept of trust money, the essential requirements of the double-entry bookkeeping system as applied to Legal Practitioner's bookkeeping, and the functions of the various books of account. They must have sufficient practical knowledge of the supervision of bookkeeping 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.

The following are the key practical skills to be tested:

- To understand the double entry system and capture these as ledger accounts.

To know the various books of prime entry [this is where the transactions are initially captured before posting to the ledger]

- To know the difference between business accounts [including bank accounts] & ledger and Trust Accounts ledger compared to Trust accounts [including bank accounts] & ledger
- Understand the difference and nature of Fees journals and general journals
- The treatment of Trust creditors and the difference compared to business creditors
- Able to do a bank reconciliation of the business and Trust bank accounts
- Understand the nature and accounting treatment of correspondent attorneys, including acting as a correspondent attorney.
- Understand the liability due to the LPFF for interest received as per the different sections, net of bank charges.
 - ✓ Section 86 [2] & 86 [3] 100 % of interest vests in and is due to the Fund [less revovable bank charges] – Registered VAT practitioners must exclude VAT on bank charges.
 - ✓ 5% of of interest vests in and is due to the Fund [Bank charges is for clients account, - VAT on bank charges not applicable.

Questions on the treatment of VAT in financial transactions are 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. It is important to know the application in practical terms of these Acts and not the detailed content.

- 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 (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 Practice 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
- 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.