INSTRUCTIONS

1. This examination paper consists of **SIX (6) questions**. You are required to answer all six (6) questions.

2. This examination paper consists of **FIVE (5) pages**. It is your responsibility to ensure that you have all five (5) pages.

3. In answering each question, you are required to write **legibly** and to clearly **indicate the numbers of the questions and sub-questions** answered by you.
QUESTION 1

Briefly explain the meaning of the following concepts:

1.1 void marriage [2 Marks]

1.2 stuprum [2 Marks]

1.3 consortium omnis vitae [2 Marks]

1.4 civil union [2 Marks]

1.5 sterility [2 Marks]

[TOTAL Q1: 10 MARKS]

QUESTION 2

Critically discuss the Constitutional Court’s judgment in *Fourie v Minister of Home Affairs* 2006 (1) SA 524 (CC) which concerned the rights of same-sex couples to marry. Your answer should include a discussion of the importance of section 13 of the Civil Union Act 17 of 2006.

[TOTAL Q2: 10 MARKS]
QUESTION 3

Section 21 of the Children’s Act 38 of 2005 makes provision for full parental responsibilities and rights to be conferred upon unmarried biological fathers. Describe the circumstances under which this is possible.

[TOTAL Q3: 10 MARKS]

QUESTION 4

Mr and Mrs Jones are married in community of property. Mr Jones is having an extra-marital affair with his personal assistant, Patricia, and pays the rental on her duplex in the amount of R6 000 per month. Patricia knows that Mr Jones is still married in community of property and that his wife is not aware of, and has not consented to, him paying the rental for the duplex. She nevertheless accepts this generous act on the part of Mr Jones. Mrs Jones finds out from a friend that Mr Jones is having an affair with Patricia and that he is paying the monthly rental on her duplex without her (Mrs Jones) consent. Mrs Jones approaches you for advice.

With reference to relevant legal authority, advise Mrs Jones on the following issues:

4.1. Whether, in the absence of Mrs Jones’ consent, Mr Jones is allowed to pay the rental on Patricia’s property;

[2 Marks]

and

4.2. What statutory remedies are available to her?

[8 Marks]

[TOTAL Q4: 10 MARKS]
Mr and Mrs Cloud concluded a civil marriage out of community of property without the accrual system. Due to various reasons the couple decided to divorce. At the institution of the divorce proceedings, Mr Cloud’s estate was valued at R1 500 000 while Mrs Cloud’s estate was valued at R300 000.

During the subsistence of the marriage, Mrs Cloud had never been permanently employed but assisted in raising the couple’s 2 children. She also worked in the mornings as a receptionist for Mr Cloud’s business without being remunerated, and from time to time assisted with other activities within the business.

Mrs Cloud intends to apply for a redistribution of assets order in terms of the Divorce Act 70 of 1979, because she wants to claim 50% of her husband’s estate. She approaches you for advice.

5.1. With reference to relevant legal authority, fully explain how the concept of ‘irretrievable breakdown of the marriage relationship’, as articulated in section 4 of the Divorce Act 70 of 1979, has been interpreted and applied in case law.

[10 Marks]

5.2 Briefly explain the power of the court in terms of sections 7(3) and 7(4) of the Divorce Act to grant a redistribution of assets order as sought by Mrs Cloud.

[10 Marks]

[TOTAL Q5: 20 MARKS]
Derek and Lerato have co-habited as a couple for 10 years. Lerato has had gynaecological problems for a long time. As a result, she has been unable to conceive a child naturally with Derek. One of the options that the couple are currently considering is adoption. They approach you for advice on the law regarding co-habitation and whether persons who co-habit may adopt a child together. In advising them, refer to relevant legal authority.

[TOTAL Q6: 10 MARKS]