INSTRUCTIONS

1. Please make sure that your writing is legible.
2. This paper consists of **FOUR (4) pages**, please make sure you have all the pages.
3. There are **SIX (6) questions** in this examination.
4. All questions must be answered.
5. Refer at all times to relevant case law.
QUESTION 1

Tammy is a nine year old child whose parents are divorced. She lives with her mother in Port Elizabeth. Her father lives in Johannesburg. She spends every alternate school holiday with her father.

1.1 Where is Tammy domiciled? Explain with reference to authority.

[7 Marks]

1.2 What are the requirements for a domicile of choice?

[3 Marks]

[Total Q1: 10 Marks]

QUESTION 2

Cindy Smith’s husband Marius, a soldier in Syria, has been missing for five years. Cindy approaches you for advice on the following:

2.1 She would like to approach a court to ask for an order of presumption of death pertaining to her husband. Outline the correct procedure that must be used in order to obtain the order.

[6 Marks]

2.2 What are some of the factors that a court will consider when deciding whether to grant the order or not?

[8 Marks]

2.3 She would like to know what will happen to the property of her husband once the order is granted.

[2 Marks]
2.4 Cindy informs you that she would like to marry her boyfriend Chris and wants to know if she may do so after the court grants the order. Explain the legal position.

[4 Marks]

[Total Q2: 20 Marks]

QUESTION 3

Cassie has been married to Jones since March 2013. Between January and May 2015 Jones worked in London office of his employer. During this time Cassie had an extramarital affair with Freddy. In early June 2015, Cassie discovered that she was six weeks pregnant. Jones knows that he cannot be the father of the unborn child, but Cassie has told him that because they are married the law presumes that he is the father of the child and that there is nothing he can do about it.

Jones approaches you for advice. Answer the following questions:

3.1 Name and explain the principle in terms of which it is presumed that Jones is the father of the child.

[4 Marks]

3.2 Briefly advise Jones as to whether there is any way in which he can prove that he is not the father of the child.

[7 Marks]

3.3 Who would be presumed to be the father of the child if Cassie divorced Jones when she discovered she was pregnant and immediately married Freddy before the birth of the baby?

[4 Marks]

[Total Q3: 15 Marks]
QUESTION 4

Rani is 17 years old, against the wishes of her parents she has signed a contract with Computer College to embark on a computer course. The duration of the course is 6 months and a fee of R500 per month is payable, monthly in advance, to the college for the duration of the course. One month’s notice is required of anyone who wishes to terminate the contract. After one month, and having paid the R500, Rani decides that she no longer wishes to continue with the course. She stops attending lessons and ceases making payments. Computer College has sent Rani a letter of demand calling on her to pay one month’s fees in lieu of her having to give notice terminating the course.

Rani’s parents have approached you for advice. Advise them as to whether there is a binding contract between Computer College and Rani and whether she is required to pay the amount demanded.

[10 Marks]

QUESTION 5

Discuss a minor’s capacity to enter into a civil marriage.

[5 Marks]

QUESTION 6

Discuss the effect of mental illness on the capacity to act of a person.

[10 Marks]

TOTAL FOR PAPER: 70 MARKS