

NATIONAL UNIVERSITY OF LESOTHO
LLB SUPPLEMENTARY EXAMINATIONS
L3307: LAW OF EVIDENCE

August, 2023

Marks: 100

Time: 3 hours

INSTRUCTIONS

1. Answer any **FOUR (4)** questions
2. Answer clearly and refer to relevant authorities
3. Each question carries 25 Marks
4. Allocate 45 minutes to each question.

Question 1

Admissibility of evidence of previous convictions is one of the cardinal rules under fair trial and presumption of innocence of the accused. Discuss the general rule and the rationale behind previous convictions of an accused and discuss the exceptions to the general rule.

[25 MARKS]

Question 2

“There is a strange rule of law which says a conviction of a criminal court is not evidence of guilt in subsequent civil proceedings, not even prima facie evidence. I thought at the time the rule was wrong. I still think it is wrong, but in this court, I am bound by it”.

Critically examine the application of the above rule in the law of evidence and make recommendations for reform, if any.

[25 MARKS]

Question 3.

The exclusion of relevant evidence on account of legal professional privilege is essential in the practice of law and to ascertain trust between a lawyer and client.

Discuss the above statement and explain the exceptions to the legal professional privilege.

[25 MARKS]

Question 4.

Mr. Thabo is suing the Minister of Health and the Attorney General for the death of her wife which he claims was due to the negligence cause by the Doctors and nurses and Roma Hospital during an operation in which a new drug was used named Pitocin AC. Dr. Jones, one of the hospital's doctors that administered the drug is one of the witnesses in court. Consider the admissibility of the following items of evidence:

- (a) The evidence of Mr. Molefi, the hospital administrator, who will produce a post mortem report by Dr Gregory who is away on holiday to the effect that Thabo died of heart failure.

15 Marks

- (b) The record of a disciplinary inquiry against Dr Jones in which the Hospital's Board had found him guilty of negligence. The Report had been forwarded to the hospital's lawyers for their advice.

10 Marks

[25 MARKS]

Question 5

The general rule is that evidence of opinion or belief held by a witness regarding a fact in issue is inadmissible. Are there any exceptions to this general rule?

[25 MARKS]

Question 6

What are similar facts in the law of evidence? On what grounds, if any, are similar facts admissible in evidence in criminal proceedings. Explain your answer.

[25 MARKS]