

UNIVERSITY OF FORT HARE
NELSON R MANDELA SCHOOL OF LAW
(East London Campus)

Law of Persons
LPR 122L

Main EXAMINATION

November 2019

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Time: 3 hours

Subject: LPR 122L

Marks: 100

This paper consists of Two (2) pages including the cover
page

Internal examiners

Adv S Muthugulu-Ugoda

Internal Moderator

Mr J Mahler

INSTRUCTIONS

1. Answer ALL questions.
2. Do not separate subsections of questions.
3. Pay careful attention to marks allocated.
4. WRITE LEGIBLY.

QUESTIONS

1. Mr X has been missing for 10 years since the light aeroplane in which he was travelling disappeared without a trace of the East London coast. Mrs X has trouble administrating her husband's large estate. She applies for a presumption of death with regard to her husband, but her application is unsuccessful. Advise her on possible solutions to her problems. Refer to the case of *In re Kannemeyer* (1899) 16 SC 407 and *Ex Parte Pieters* 1993 (3) SA 379 (D) for guidance. (15)
2. Mr Modise's will contains the following clause: "My daughter, Linda, inherits R90 000 and her children who are alive at the date of my death, each inherits R40 000." Mr Modise dies on 15 August 2018. Linda's third child, Peter, is born on the 18 September 2018. Linda has two other children, Matome and Sarah.
 - (a) Who will inherit from Mr Modise? Explain your answer with reference to legal authority. (15)
 - (b) What would the position have been if Peter died while his mother was giving birth to him? (10)
3. Because X was missing for 10 years after the light aeroplane in which he was passenger disappeared without a trace somewhere over the war-ravaged Angola, his wife, Y successfully applied for an order presuming his death in term of the common law. She has now met Z, and would like to marry him. Explain her legal position with reference to authority. (10)
4. After Sipho and Maria had been married for 8 years, Sipho, a soldier, was sent to Iraq by the South African National Defence Force. Three years ago, it was reported that the truck he was travelling in had burnt down. His body was never found. Maria has now fallen in love with another man, Jabulani. She approaches you for advice on the following:
 - a) Maria wishes to know who may approach the High Court to grant a presumption of death. Advise her fully. (10)
 - b) Once the court has pronounced the presumption of death, what happens to Sipho's estate? (10)
 - c) Maria now wishes to marry Jabulani. She wants to know from you whether this is possible and, if so, how she should go about it. With reference to the relevant legislation, advise her on the steps she needs to take to ensure that her marriage to Jabulani will be valid. (10)
 - d) Five years after his disappearance, Sipho is found alive and well. Maria, who has since married Jabulani, now wants to know from you who she is married to legally – Sipho or Jabulani. (10)
5. How will the courts deal with conflict between the heirs on the funeral or cremation arrangements or burial place of a deceased? (5)
6. Briefly discuss the provisions of the Human Tissue Act 65 of 1983 that regulate the use of parts of the human body for therapeutic and scientific purposes. (5)

Total 100 marks