higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE (VOCATIONAL)

INTRODUCTION TO LAW
NQF LEVEL 2

7 November 2022

This marking guideline consists of 7 pages.

Copyright reserved

SECTION A

QUESTION 1

1.1 D
1.2 B
1.3 B
1.4 B
1.5 A
1.6 D
1.7 B
1.8 A
1.9 C
1.10 D

(10 × 1) **[10]**

QUESTION 2

2.1 I
2.2 L
2.3 A
2.4 E
2.5 J
2.6 C
2.7 B
2.8 M
2.9 D
2.10 G

(10 × 1) **[10]**

QUESTION 3

3.1 False
3.2 True
3.3 True
3.4 True
3.5 False

(5 × 1) **[5]**

Copyright reserved

QUESTION 4

4.1
4.1.1 rules
4.1.2 interaction
4.1.3 norms
4.1.4 consciences
4.1.5 regulate

(5 × 1) (5)

4.2
4.2.1 ownership
4.2.2 moveable
4.2.3 delivery
4.2.4 immovable
4.2.5 registering

(5 × 1) (5)
[10]

TOTAL SECTION A: 35

SECTION B

QUESTION 5

5.1 **Note to the assessor: The following must be used as a guide when awarding marks. Accept any relevant example:**

- Insanity:✓ an inability to distinguish between right and wrong or the person is not capable of understanding the nature and consequences of his/her actions.✓
- Intoxication:✓ a temporary inability of people to understand the consequences of their actions while under the influence of drugs and/or alcohol.✓
- Prodigality:✓ the situation where a person with normal mental capacities is, because of some lack of judgement, not able to manage day-to-day obligations properly.✓ (6 × 2) (6)

5.2 **Note to the assessor: Allocate ONE mark to any SEVEN of the following.**

- Collect and safeguard the assets of the estates.
- Report to creditors about the affairs of the insolvents.
- Convene meetings of creditors to prove claims.
- Examine proven claims.
- Question the insolvents and others.
- Realise assets in accordance with the instructions of creditors.
- Collect outstanding debts owing to the estates.
- Draw up accounts for confirmation by the Master before paying creditors.

(Any 7 × 1) (7)

Copyright reserved

5.3 **Note to the assessor: Allocate ONE mark to any SEVEN of the following.**

- No one may be imprisoned without valid reason and proper procedures.
- No one may be detained without a trial.
- Everyone has the right to be free from all kinds of violence – either from public sources (the police) or private sources (a drunk husband abusing his wife and children).
- Torture is not allowed under any circumstances.
- No one may be treated or punished in a cruel, inhuman, or degrading manner.
- Everyone has control over his or her own body, including the right to decide to have (or not to have) children.
- No one may be used for medical or scientific experiments without their permission. (7)

[20]

TOTAL SECTION B: 20

SECTION C

QUESTION 6

6.1 **Note to the assessor: The following must be used as a guide when awarding marks.**

- Criminal cases:✓ District courts cannot try serious offences like murder and rape.✓ They usually try less serious offences like theft, drunken driving, and assault.✓ A district court may not impose a sentence of imprisonment✓ of more than three years✓ or a fine of more than R60 000.✓
- Civil cases:✓ They have no jurisdiction in cases that fall within the exclusive jurisdiction of High Courts.✓ A district court can only hear cases where the amount of the claim is less than R100 000.✓
- Constitutional matters:✓ A district court has jurisdiction in constitutional matters✓ only if an act of Parliament grants it the jurisdiction.✓ (12)

6.2 **Note to the assessor: The following must be used as a guide when awarding marks.**

Indigenous law is mainly unwritten.✓ It is customary and traditional.✓ Elders have passed it down to successive generations since time immemorial.✓ There is no single indigenous legal system in South Africa.✓ Every cultural group has its own legal system that differs in some detail from that of other cultural groups.✓ (5)

6.3 **Note to the assessor: Allocate ONE mark to any THREE of the following.**

Three independent branches of government:
- The legislature
- The executive
- The judiciary (3)

6.4 **Note to the assessor: Allocate ONE mark to any TWO of the following.**

A price that the groom pays for the bride,✓ traditionally with cattle.✓ (2)

6.5 **Note to the assessor: Allocate ONE mark to any THREE of the following**.

- Children's courts
- Maintenance courts
- Family courts
- Equality courts
- Small claims courts
- Special courts (Any 3 × 1) (3)

[25]

TOTAL SECTION C: 25

SECTION D

Note to the assessor: Only mark QUESTION 7 or QUESTION 8

QUESTION 7

7.1 According to the system of judicial precedent,✓ the decision of higher courts✓ bind lower courts.✓ Previous decisions of all courts also bind these courts,✓ unless the decisions are wrong.✓ (5)

7.2 **Note to the assessor: The following must be used as a guide when awarding marks.**

- The Constitutional Court is the highest court in the land✓ and the highest court in constitutional matters.✓
- The Supreme Court of Appeal is,✓ expect for the Constitutional Court, ✓ the highest court in South Africa.✓ It deals only with appeals against decisions in High Court cases.✓ Except for the Constitutional Court, no other court can change the decision of the Supreme Court of Appeal.✓ The Supreme Court of Appeal can also change one of its own decisions.✓ Its judgements bind all subordinate courts in the country.✓ Its own judgements bind the court unless they were incorrect.✓
- The judgements of the Supreme Court of Appeal bind High Courts and their local divisions.✓ Where there are no applicable judgements✓, their own previous judgements bind these courts unless they were wrong. ✓
- The judgements of the Supreme Court of Appeal bind lower courts, magistrates' courts, district courts and traditional courts.✓ Where there are no applicable judgements, judgements of the High Court in their provinces bind these courts.✓ (10)

Copyright reserved

7.3 **Note to the assessor: Allocate ONE mark to any FIVE of the following.**

- The Constitutional Court✓
- The Supreme Court of Appeal✓
- The High Courts,✓ including any High Court of Appeal✓
- Magistrates' courts✓ and regional courts✓
- Any other court established or recognised in terms of an act of Parliament.✓ (5)

[10]

OR

QUESTION 8

8.1 **Note to the assessor: The following must be used as a guide when awarding marks.**

- Disputes between organs of state in the national✓ or provincial sphere concerning the constitutional status,✓ powers✓ or functions✓ of any of those organs of state.✓
- The constitutionality of parliamentary or provincial bills✓ after the president or the premier of a province has referred them to the Constitutional Court.✓
- The constitutionality of parliamentary or provincial bills after members of the National Assembly✓ or a provincial legislature have applied to the Constitutional Court for an order declaring the act unconstitutional. ✓
- The constitutionality of any amendment to the Constitution. ✓
- The question of whether Parliament✓ or the president has failed to fulfil a constitutional duty.✓
- The certification of a provincial constitution. ✓ (Any 5 × 1) (5)

8.2

LAWS OF NATURE	LAWS OF SOCIETY
Control the working of nature	Control the conduct of humans
Apply to all creatures everywhere	Apply to some people in some situations
Physical harm enforces them	Sanctions, or punishment enforce them
They do not always depend on the interventions of humans	They depend on the intervention of humans who enforce them
An example is the law of gravity	An example is the Road Traffic Act

(5 × 2) (10)

8.3 **Note to the assessor: Allocate ONE mark to any FIVE of the following.**

- The custom must be reasonable.
- The custom must have existed for a long time.
- A community must recognise and observe the custom.
- The content of the custom must be certain and clear.
- The custom must be a settled practice.
- The majority of people in a community must feel bound by the custom.

(Any 5 × 1) (5)
[20]

TOTAL SECTION D: 20
GRAND TOTAL: 100

Copyright reserved