higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE (VOCATIONAL)

INTRODUCTION TO LAW
NQF LEVEL 2

16 November 2023

This marking guideline consists of 6 pages.

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SECTION A

QUESTION 1

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

(10 × 1) **[10]**

QUESTION 2

2.1 True
2.2 False
2.3 False
2.4 True
2.5 False

(5 × 1) **[5]**

QUESTION 3

3.1 D
3.2 G
3.3 I
3.4 A
3.5 J
3.6 C
3.7 E
3.8 F
3.9 L
3.10 H

(10 × 1) **[10]**

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QUESTION 4

4.1 4.1.1 common law
4.1.2 Bill of Rights
4.1.3 Chapter 2

(3 × 1) (3)

4.2 4.2.1 social conflict
4.2.2 justice

(2 × 1) (2)
[5]

TOTAL SECTION A: 30

SECTION B

QUESTION 5

5.1

LAW	MORALITY	JUSTICE
• It is a set of legal rules. • It is determined by a country or government. • Is used to regulate behaviour. • It is enforced by a court. • It carries the threat of punishment and/or penalties. (Any 2 × 1)	• It comprises principles of right and wrong. • It may overlap with laws. • It may be, but is not necessarily, enforced by the state. • It is determined by family groups, religious communities and personal beliefs. (Any 2 × 1)	• It encompasses fair behaviour and treatment. • It has as its basis equality before the law. (Any 2 × 1)

(6)

NOTE TO THE ASSESSOR; ANY RELEVANT EXPLANATION MAY BE MARKED.

5.2
- They regulate people's behaviour.
- They are uniform or they apply equally to everyone.
- They define or determine the rights and obligations (duties) of people.
- They provide solutions to conflicts that may arise between people.
- They prescribe procedures by which courts can enforce rights and prove facts.
- They set out what the legal consequences of certain events are or what the consequences will be if people act in a certain way. (6)

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5.3
- 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 the community must feel bound by the custom. (6)

[18]

QUESTION 6

NOTE TO THE ASSESSOR; ANY RELEVANT EXAMPLE MAY BE MARKED.

6.1
- Legal capacity:✓ Animals do not have legal capacity.✓
- Capacity to act:✓ Drawing up a will, signing a contract and getting married.✓
- Capacity to take part in legal proceedings:✓ To be a party in civil proceedings.✓
- Accountability:✓ To distinguish between right and wrong and to act according to that ability.✓ (4 × 2) (8)

6.2
- Conduct
- Wrongfulness
- Fault
- Causation
- Damage (Any 4 × 1) (4)

NOTE TO THE ASSESSOR: ANY RELEVANT EXPLANATION MAY BE MARKED.

6.3 6.3.1 Limited partnership: These have general and special partners but only general partners can transact business.✓ Special partners do not incur personal liability over and above their initial contributions.✓ (2)

6.3.2 Anonymous partnership: This partnership only discloses their ordinary partners.✓ Anonymous partners play no part in the business but are pro rata liable for the partnership debt.✓ (2)

6.3.3 Partnership en commandite: The partners in partnership en commandite contribute fixed sums to the business,✓ and receive fixed shares of the profits.✓ They are liable for debts up to the amount of their contributions.✓

(Any 2 × 3) (6)

6.4
- Bills of exchange
- Cheques
- Promissory notes (Any 2 × 1) (2)

[20]

TOTAL SECTION B 38

SECTION C

QUESTION 7

7.1
- The person must have had the intention to commit a crime.
- The person must have had committed an act to accord with his or her intention
- The crime must not have been completed. (3)

NOTE TO THE ASSESSOR; ANY RELEVANT EXAMPLE MAY BE MARKED.

7.2
- Self-defence or private defence.✓ When a person protects his or her own or another's interest against an unlawful attack.✓
- Necessity:✓ For instance, where a person exceeds the speed limit in order to rush his or her serious ill child to hospital.✓
- Spontaneous agency:✓ For instance, X's house is in danger of being flooded because of a tap left open. Y thereupon breaks a window in order to enter the house and turn the tap off.✓
- Official capacity:✓ For instance, a police official breaks down a door to arrest a dangerous criminal.✓ (2 × 1 for facts and 2 × 1 for examples) (4)

NOTE TO THE ASSESSOR; ANY RELEVANT EXPLANATION MAY BE MARKED.

7.3
- In indigenous law, there is no concept of an entity other than a human being with legal personality✓ (a natural person).✓ Indigenous law has no concept comparable with the corporation✓ (juristic person).✓
- The emphasis is on the group rather than the individual.✓ While all the members share in the rights of the group,✓ the extent of all members' share is equal to their status in the group.✓ Factors like age, gender and rank affect the status of the members.✓
- The typical contract in indigenous law is one where the agreement becomes binding once there has been performance✓ or partial performance.✓ An example is an agreement to marry and to transfer marriage goods.✓
- The central indigenous law that governs family relationships is the law that relates to the institution of marriage.✓ An important feature of the institution is that the groups of the bride and the husband are central.✓ Marriage comes about with the transfer of the bride from her group to her husband's group.✓ The consent of both family groups is necessary.✓ Although the bride becomes a member of her husband's group, she retains membership of her own group.✓ (Any TEN) (10)

[17]

TOTAL SECTION C: 17

SECTION D

QUESTION 8

NOTE TO THE ASSESSOR; ONLY ONE QUESTION MUST BE MARKED.

8.1
- 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 premier of a province has referred them to the Constitutional Court✓
- The constitutionality of parliamentary or provincial acts✓ 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✓ (15)

OR

8.2
- Criminal cases:✓ A High Court must always hear charges of high treason.✓ It can try any criminal offences, but normally it will only try serious cases✓ where the possible sentence is imprisonment of more than 15 years✓ or a fine of more than R300 000.✓
- Civil cases:✓ It will only try cases where the amount claimed is more than R100 000.✓ Moreover, only the High Court can hear cases concerning matters of status.✓
- Constitutional matters:✓ A High Court can decide any constitutional matter,✓ except a matter that falls within the exclusive jurisdiction of the Constitutional Court.✓
- Appeals and reviews:✓ A High Court can review and hear appeals✓ regarding criminal and civil cases✓ from the lower court.✓ (15)

[15]

TOTAL SECTION D: 15
GRAND TOTAL: 100

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