higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

INTRODUCTION TO LAW
NQF LEVEL 2

(8021002)

10 December 2020 (X-paper)
09:00–12:00

This question paper consists of 8 pages.

503Q1N2010

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TIME: 3 HOURS
MARKS: 100

INSTRUCTIONS AND INFORMATION

1. Read all the questions carefully.
2. Answer all the questions in SECTIONS A, B and C.
3. Answer ONE question in SECTION D.
4. Number the questions according to the numbering system used in this question paper.
5. Leave a space and rule of across the page on completion of each question.
6. Write neatly and legibly.

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SECTION A

QUESTION 1

1.1 Choose the correct statement in each of the groups given below. Write only the letter (A–D) next to the question number (1.1.1–1.1.5) in the ANSWER BOOK.

1.1.1
A Judicial precedent refers to the judge who swears in the president of the country.
B Judgements from different courts do not have to apply the existing law to each case they have to decide.
C The decisions judges make are called verdicts.
D Judges and magistrates apply the law by not listening to the facts and giving their decisions based on what they think.

1.1.2
A Common law will usually apply when legislation does not deal with a matter.
B Lawyers and judges or magistrates in South Africa do not
C consider a legal rule as it can never be part of common law.
D All crimes are common law crimes.
Common law cannot be used to interpret legislation.

1.1. 3
A The law of persons is that part of the law of obligation dealing with the legal position of people and things having illegal capacity
B A legal or juristic person is a legal subject that is not a person but has rights and duties like a living person.
C Legal capacity is the inability to have rights and duties.
D Legal personality refers to people or groups who desire to have rights and duties according to their wishes.

1.1.4
A Certain legal subjects have a legal status.
B Legal status refers to all the rights and duties of a legal subject.
C Legal status is the total amount of rights and duties a legal subject has.
D Legal status depends on things such as age, gender, whether you are married or not, what kind of marriage you have, nationality and mental health.

1.1.5
A A maximum of twenty natural persons are allowed to form a close corporation.
B A company can be a member of a close corporation.
C Members of a close corporation cannot choose to create an association agreement to set out rules about the relationship between them.
D No new close corporations may be formed.

(5 × 1) (5)

1.2 Choose a description from COLUMN A that matches a term in COLUMN B. Write only the letter (A–J) next to the question number (1.2.1–1.2.10) in the ANSWER BOOK.

COLUMN A		COLUMN B	
1.2.1	Delict	A	valid and fairly implemented laws; equality before the law is regarded as the basis for justice
1.2.2	Constitutional law		
1.2.3	Perpetrator	B	the competence of a particular court to hear a specific case
1.2.4	Justice		
1.2.5	Sequestration	C	law dealing with civil disputes covering relationships between private parties
1.2.6	Jurisdiction	D	controls all aspects of state administration, different state institutions and interaction between those state institutions
1.2.7	Civil law		
1.2.8	Prosecutor	E	represents the state in criminal cases, and is the person who makes the case against the accused
1.2.9	Court of first instance		
1.2.10	Criminal law	F	a court in which legal proceedings are begun or first heard
		G	law dealing with crimes and punishment of crimes
		H	to take legal possession of assets until debts have been paid or other claims have been met
		I	someone who committed a crime
		J	a negligent or wilful act that affects another

(10 × 1) (10)

1.3 Indicate whether the following statements are TRUE or FALSE by writing only 'True' or 'False' next to the question number (3.1–1.3.10) in the ANSWER BOOK.

1.3.1 Common law is a collection of legal rules that developed over time from customs, older legal systems and from decisions of judges.

1.3.2 The Bill of Rights forms part of the Constitution and confirms the important human rights of only one ethnic group of citizens in South Africa.

1.3.3 The law of civil procedure sets out the formalities and procedures used when one person sues another person for breach of legal duty arising from a private law relationship.

1.3.4 The Matrimonial Property Act of 1984 regulates patrimonial consequences of marriage.

1.3.5 Polygamy means a parent has more than one child.

1.3.6 In a levirate marriage a man should marry one of his wife's children when her husband dies.

1.3.7 Lobolo is the property in cash or in kind that a prospective husband or the head of his family undertakes to give to the head of the prospective wife's family before a customary marriage occurs.

1.3.8 The registrar of the high court is a public servant stationed at each provincial and local division of the high court.

1.3.9 Clerks of the court do not have the same duties in the magistrate's court as the registrar of the high court.

1.3.10 The master of the high court is in control of the administration of criminal cases such as murder.

(10 × 1) (10)
[25]

TOTAL SECTION A: 25

SECTION B

QUESTION 2

2.1 Read the extract and answer the questions.

> Statutory laws are designed to make the functions and roles of the government clear and to improve civil order. Indigenous law is the customary law of the indigenous people of South Africa and is also known as African customary law. The procedure in criminal cases follows its own process of charging the accused, reading the charge in court, the trial of the accused and then the judgement and sentencing.

2.1.1 Explain what is meant by *administrative acts* under the Administrative Law. (5)

2.1.2 Discuss the general characteristics of indigenous law. (5)

2.1.3 The charge in a criminal court case is read before the accused may plead.

Describe the step 'plea to the charge'. (5)

2.2 What is meant by *immovable property* in terms of the law of things? (4)
[19]

QUESTION 3

3.1 Explain how statutory laws can assist judges in South Africa in case of a conflict between sources of law. (3)

3.2 Discuss 'application proceedings' during a civil court case. (3)
[6]

TOTAL SECTION B: 25

SECTION C

QUESTION 4

Read the extract below and answer the questions.

Indigenous law has developed in South Africa over ages since the 16th century. In 1988 the Law of Evidence Amendment Act (Act 45 of 1988) was promulgated, stating that a court can take judicial notice of indigenous law. The Law of Succession controls matters when a person dies with a will (testate succession) or without a will (intestate succession).

4.1 Indigenous law does not deal with the relationship between the state and individuals but only regulates relationships between individuals.

Discuss the 'person in indigenous law' in South Africa. (8)

4.2 Discuss the remedies for breach of partnership duties. (4)
[12]

QUESTION 5

5.1 Discuss intestate succession in terms of the Intestate Succession Act, Act 81 of 1987. (4)

5.2 For an act to be contravened by a crime, there are four elements that must be present.

5.2.1 Name these FOUR elements. (4)

5.2.2 Define *accomplice* in your own words. (1)

5.3 Name the TWO categories companies are divided into in terms of the Company Law. (2)

5.4 There are different forms of evidence that can be brought before a court and which a court can take into account.

Discuss the different forms of evidence. (7)
[18]

TOTAL SECTION C: 30

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SECTION D: Answer only ONE question in this section.

QUESTION 6

Three main types of rules determine our behaviour. They are legal rules, internal rules and moral (ethical) rules.

6.1 Explain *legal rules*. (9)

6.2 State THREE examples of legal rules. (3)

6.3 Explain *legal norms*. (8)
[20]

OR

QUESTION 7

Family law is that part of private law that governs the relationship between a husband and a wife, and between a parent and a child. Peter and Mary are married within community of property. Peter is in a partnership with James, an old school friend. He owes James a lot of money and then James sued him for the money.

7.1 Discuss the difference between *engagement* and *marriage*. (10)

7.2 Discuss the implications of the legal nature of the partnership between Peter and James. (10)
[20]

TOTAL SECTION D: 20
GRAND TOTAL: 100

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