higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

MUSIC BUSINESS AND STYLES N5

14 June 2021

This marking guideline consists of 8 pages.

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SECTION A

QUESTION 1

1.1 D
1.2 A
1.3 B
1.4 A
1.5 A
1.6 D
1.7 B
1.8 C
1.9 D
1.10 A
1.11 C
1.12 B
1.13 D
1.14 C
1.15 A
1.16 B
1.17 B
1.18 C
1.19 A
1.20 B
1.21 D
1.22 A
1.23 C
1.24 C
1.25 B

(25 × 2) **[50]**

QUESTION 2

2.1 True
2.2 True
2.3 False
2.4 False
2.5 True
2.6 False
2.7 True
2.8 False
2.9 True
2.10 True
2.11 False
2.12 True
2.13 True
2.14 False
2.15 False
2.16 False
2.17 True
2.18 False
2.19 True
2.20 False
2.21 False
2.22 True
2.23 True
2.24 True
2.25 False

(25 × 2) **[50]**

QUESTION 3

3.1 J
3.2 L
3.3 G
3.4 I
3.5 K
3.6 B
3.7 M
3.8 D
3.9 N
3.10 F
3.11 A
3.12 H
3.13 O
3.14 C
3.15 E

(15 × 2) **[30]**

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QUESTION 4

4.1 selection
4.2 tangible
4.3 exclusive
4.4 microphone
4.5 royalty
4.6 finance
4.7 reproduce
4.8 multimedia
4.9 author
4.10 infringement
4.11 sounds
4.12 lyrics
4.13 revenue
4.14 copyright
4.15 reproduce

(15 × 2) **[30]**

TOTAL SECTION A: 160

SECTION B

QUESTION 5

5.1 5.1.1 Digital sound/audio is technology used to record, store, manipulate, generate and reproduce sound using audio signals that have been encoded in digital form.✓✓ It also refers to the sequence of discreet samples that are taken from an analogue audio waveform.✓✓ (4)

5.1.2 Synchronisation license fees are required any time the performance of a song is accompanied by visual images. Synchronisation licenses are issued when songs are included in audiovisual works such as movies, TV shows, TV advertisements, video games, etc.✓✓ The fees paid for synchronisation licenses vary according to the usage and the importance of the song.✓✓ While a ten-second background use of an unknown instrumental song in a television show may generate a fee of only a few hundred dollars, the fee for the use of a full-length performance of a hit song in a major motion picture or national advertising campaign can be in excess of $100 000.✓✓ (6)

5.2
- It must be original which means that it has not been copied from any other source.✓✓
- It must be fixed in a tangible medium of expression,✓✓ which means that it exists in some reasonably permanent or stable form so that a person can perceive it and reproduce it.✓✓
- It must have a minimum degree of creativity.✓✓ (8)

5.3
- Cover versions
- Films
- TV and video games
- Ringtones
- Karaoke machines
- Greeting cards (Any 5 × 1) (5)

5.4
5.4.1 Administers compositions
5.4.2 Writes music and lyrics
5.4.3 Administration of copyrights
5.4.4 Major publishing company
5.4.5 Independent publishing company affiliated with a major publishing company
(5 × 1) (5)
[28]

QUESTION 6

6.1 A sync license gives the license holder the right to use a composition and rerecord a song for use in a media project,✓✓ while a master license gives the license holder the right to use a previously recorded song in a media project.✓✓ (2 + 2) (4)

6.2 The major differences between a partnership and a corporation are tax-planning aspects,✓✓ liability limitations and the fact that corporations are more expensive to set up and run.✓✓ Besides that there is not much of a difference between a corporation or a partnership.✓✓ In liability limitations, corporations limit which assets someone suing can seize as the person suing can only seize the assets of the corporation.✓✓ In partnerships both the partnership's assets and the assets of every partner can be seized.✓✓ Benefits of corporations include that they are offset by the increased cost of setting it up and running it.✓✓ Most states now have something called a limited liability company or LLC. LLCs are basically partnerships, but they provide the limited liability of a corporation.✓✓ They are as cheap and easy to use as partnerships.✓✓ The mechanical difference between these entities is that, if one wants a partnership, they need a written partnership agreement and if they want a corporation or LLC, they need both a written shareholders' agreement,✓✓ which means an agreement among the shareholders of a corporation, or the owners of the LLC, who are called members, and employment agreements between members and the corporation or the LLC.✓✓ (20)

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6.3 A publishing company keeps track of and collects the publishing monies for songwriters.✓✓ Many songwriters engage or contract with music publishing companies. A publishing company's job is to find uses for a songwriter's music such as issuing licenses,✓✓ collecting income generated from the licenses✓✓ and paying all monies due to the songwriter after deducting an agreed-upon fee or percentage of the venues for the performance of these services.✓✓ These arrangements between the publisher and the musician are called publishing agreements.✓✓ There are several types of publishing agreements, including:

- Copublishing agreements where the songwriter or the songwriter's publisher and an administrative publisher jointly own the copyrights of the song✓✓
- Songwriter agreements where the songwriter transfers the copyrights to the publisher✓✓
- Administration agreements where the songwriter retains the copyrights of the song✓✓

If offered a publishing contract, an artist should consult an attorney to review the agreement✓✓ explain its terms and negotiate with the publisher to get the fairest possible deal for the artist.✓✓ (20)

6.4 The main function of a record label or recording company is to manufacture, distribute, market, promote and sell an artist's music.✓✓ The artist and the record label enter into a written recording agreement which governs their relationship.✓✓ Some of the key provisions in recording agreements include:

- the term or duration of the agreement✓✓
- the number of songs or albums to be recorded✓✓
- the royalties to be paid to the artist✓✓
- the territory or the countries where the record label can release or sell the album✓✓
- the budget for recording, marketing and promotion and the general rights that the artist grants to the record label✓✓

Recording agreements are often 50 to 80 pages long and contain complex language and terms that are not only difficult to understand but can significantly impact the artist's rights, obligations and compensation.✓✓ Accordingly, any time an artist is offered a recording contract they should consult an attorney to review the agreement,✓✓ explain its terms to them and negotiate with the record label to get the fairest possible deal for them.✓✓ (20)
[64]

QUESTION 7

7.1 7.1.1 A booking agent's job is to find work for the artist in the music industry.✓✓ As compensation for their services, an agent receives between 5% and 15% of the artist's gross earnings from any bookings, engagements or employment secured by the agent.✓✓ The agent's commission percentage may vary depending on a number of factors, including state laws, the type of work, the length of time and/or the popularity of the artist.✓✓ The laws in many states require agents and talent agencies to obtain licenses before they can collect commissions and in some states, agents can only charge artists a maximum of 10% for securing engagements.✓✓ (8)

7.1.2 Business managers, who are often certified public accountants, look after the financial aspects of an artist's career.✓✓ A business manager's responsibilities can include providing accounting services, paying the artist's bills,✓✓ advising the artist on investments, helping form corporations, etc.✓✓ As compensation, business managers typically receive anywhere from 2% to 5% of the artist's gross receipts or may get paid an hourly rate for their services.✓✓ Before managers and agents will represent an artist, they usually require signed contracts. If approached by a manager or agent, an artist should consult an attorney to advise them and to handle any contractual negotiations on their behalf.✓✓ An artist will need professional help before signing any agreement to be sure that the terms of the agreement such as the fees, duration, etc. are fair to the musician✓✓ (12)

7.1.3 In addition to reviewing, negotiating and drafting contracts and advising clients about the law,✓✓ entertainment attorneys also often perform many of the same duties as personal managers, business managers and agents.✓✓ Attorneys must be licensed by the state in which they practice✓✓ and are either paid an hourly rate for their services or receive a percentage of the deals they negotiate on behalf of their clients.✓✓ (8)

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7.2 In order to avoid future misunderstandings, a band should have an internal agreement between all of the band members, which sets out how the band is going to conduct business together✓✓ This agreement should be created as soon as possible after the band's formation when the band members are on friendly terms and can negotiate in a level-headed manner.✓✓ One of the first decisions to be made is whether the band will create a corporation or a limited liability company to operate their business.✓✓ An internal band agreement will still be required, but it will be described as a shareholder agreement or a members agreement.✓✓ The agreement should be in writing and cover topics such as ownership of the band name,✓✓ who owns and controls copyrights, the division of the band's assets and income from live performances,✓✓ touring, record contacts, publishing deals, who, if anyone, is to act as the band's leader,✓✓ what are the responsibilities of each band member and what happens when there are disputes, someone leaves the band or the band breaks up.✓✓ A band should consult an attorney to draft a contract reflecting all of the terms agreed upon by the band members✓✓ and assist with the registration of the business entity if the band elects to form a corporation or limited liability company.✓✓ (20)
[48]

TOTAL SECTION B: 140
GRAND TOTAL: 300

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