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higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

N900(E)(M24)H
JUNE EXAMINATION

NATIONAL CERTIFICATE

LABOUR RELATIONS N5

(4110455)

24 May 2013 (Y-Paper)
13:00–16:00

This question paper consists of 6 pages.

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DEPARTMENT OF HIGHER EDUCATION AND TRAINING
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE
LABOUR RELATIONS N5
TIME: 3 HOURS
MARKS: 200

NOTE: If you answer more than the required number of questions, only the required number of questions will be marked. All work you do not want to be marked, must be clearly crossed out.

INSTRUCTIONS AND INFORMATION

1. This question paper consists of TWO sections:

   SECTION A : 40 marks
   SECTION B : 160 marks
   GRAND TOTAL : 200 marks

2. QUESTION 1 and 2 are COMPULSORY and must be answered by ALL candidates.

3. Answer any FOUR of the five questions in SECTION B.

4. Start each question on a NEW page.

5. Read ALL the questions carefully.

6. Number the answers according to the numbering system used in this question paper.

7. Write neatly and legibly.

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SECTION A: COMPULSORY

QUESTION 1

Indicate whether the following statements are TRUE or FALSE. Choose the answer and write only 'true' or 'false' next to the question number (1.1–1.20) in the ANSWER BOOK.

1.1 The Basic Conditions of Employment Act (No. 75 of 1997) does not prescribe a minimum wage.

1.2 The South African economy is characterised by strikes and the attendant violence associated with strikes.

1.3 Labour relations is the relationship between management and employees in the work situation.

1.4 All organisations have the same objectives and priorities.

1.5 When the economy is strong, there is usually less money available.

1.6 Keeping record of disciplinary transgressions is not necessary (66/1995).

1.7 Conflict often leads to new ideas and growth.

1.8 Group action is only effective if all the members work together.

1.9 One of the major strengths of a trade union is the size of its membership.

1.10 Severance pay is four week's pay for each year worked (66/1995).

1.11 NEDLAC assists in establishing workplace forums (66/1995).

1.12 Union recognition is a substantive agreement.

1.13 Each labour relations system has three parties or participants.

1.14 The labour relations policy of the undertaking can be changed.

1.15 No relationship functions in isolation.

1.16 Workplace forums represent trade union members only (66/95).

1.17 Anyone may employ a child under 15 years (1998).

1.18 The relationship between employer and employee is not complex.

1.19 Intimidation during strikes leads to the lowering of productivity.

1.20 The ILO has no punitive power but it acts as a watchdog and expresses censure.

(20 × 1) **[20]**

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QUESTION 2

Choose a description from COLUMN B that matches the word/phrase in COLUMN A. Write only the letter (A–J) next to the question number (2.1–2.10) in the ANSWER BOOK.

COLUMN A		COLUMN B	
2.1.	Retrenchment	A	an organised group of workers in a particular industry seeking to establish a relationship with management
2.2	Probation	B	established methods for dealing with workplace issues like grievances and discipline
2.3	Induction	C	an unresolved issue between the employer and employee
2.4	Dispute	D	dismissal as a result of operational requirements (66/1995)
2.5	Workplace forum	E	period of introducing new employees to their workplace and their job
2.6	Trade union	F	a consultative body at shop-floor level which aims to promote the interest of all employees (66/1995)
2.7	Shop-floor bargaining	G	a joint union-employer structure on industry level dealing with matters relating to specific sectors (for example mining) (66/1995)
2.8	Shop steward	H	an elected employee representing a group of trade union members in a section of the workplace
2.9	Bargaining council	I	a method whereby employers can bargain directly with the employees also called decentralisation or informal bargaining
2.10	Procedures	J	a period of proven satisfactory work standard after which permanent employment will start

(10 × 2) **[20]**

TOTAL SECTION A: 40

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SECTION B

INSTRUCTIONS FOR QUESTIONS 3 TO 7

1. Answer any FOUR of the five questions in Section B.
2. Use headings to distinguish between sections.
3. Avoid repetition of facts.
4. Use clear, FULL SENTENCES and show the examiner that you understand the question and its contents.

QUESTION 3

3.1 'History influences the labour relations of a country.'

With reference to this statement, discuss the following labour relations history period in South Africa:

Agriculture–mining–industrial phase (1920 to 1924) (24)

3.2 Name the external inputs with its sub-sections, of the industrial relations system. (16)
[40]

QUESTION 4

4.1 State TWELVE (12) characteristics of the South African economy. (24)

4.2 Briefly explain trade union access to the workplace (66/1995). (8)

4.3 Explain 'good faith' as a duty of the employee. (8)
[40]

QUESTION 5

5.1 Explain the *internal inputs* of an industrial relations system. (12)

5.2 Discuss the radical perspective as an approach to the service relationship. (14)

5.3 'The notice period, when the employer terminates the employment of the employee, differs according to the time the employee was employed'.

With reference to this statement, explain the termination of employment according to the Basic Conditions of Employment Act (1998). (14)
[40]

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QUESTION 6

6.1 Discuss *freedom of association* as a specific characteristic in South Africa's labour relations system. (7)

6.2 Discuss the Basic Conditions of Employment Act (No. 75 of 1998) under the following headings:

6.2.1 Night work (8)

6.2.2 Emergency work (4)

6.3 Explain the protection of employees and persons seeking employment (66/1995). (8)

6.4 State FIVE functions of employer organisations. (10)

6.5 Name the THREE ways in which a contract of service can be finalised/concluded. (3)
[40]

QUESTION 7

7.1 Discuss the powers of the Labour Court (66/1995). (7)

7.2 Briefly state the effect of an arbitration award that was issued by the CCMA (66/1995). (4)

7.3 'In the case of dismissals based on operational requirements (retrenchment), the employer must disclose all the relevant information to the other party.'

State the relevant information required (66/1995). (7)

7.4 Discuss ethical considerations as factors influencing the relationship between the employer and the employee. (12)

7.5 Briefly state TEN (10) management prerogatives/rights. (10)
[40]

TOTAL SECTION B: 160
GRAND TOTAL: 200

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Department:
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REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

JUNE EXAMINATION

LABOUR RELATIONS N5

24 MAY 2013

This marking guideline consists of 10 pages.

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SECTION A: COMPULSORY

QUESTION 1

1.1 True

1.2 True

1.3 True

1.4 False

1.5 False

1.6 False

1.7 True

1.8 True

1.9 True

1.10 False

1.11 False

1.12 False

1.13 True

1.14 True

1.15 True

1.16 False

1.17 False

1.18 False

1.19 True

1.20 True

(20 × 1) **[20]**

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QUESTION 2

2.1 D

2.2 J

2.3 E

2.4 C

2.5 F

2.6 A

2.7 I

2.8 H

2.9 G

2.10 B

(10 × 2) **[20]**

TOTAL SECTION A: 40

SECTION B

QUESTION 3

3.1

- The 1920s saw a change of the dominion status (1) English and Dutch became the official languages (1) Afrikaans did not gain recognition as an official language until 1925 (1).
- After the First World War (1) the world (1) as well as South Africa (1) experienced an economic crisis. (1)
- 1921 (1) the gold price dropped (1) and factories and mines closed. (1)
- The Railways and Post Office (1) had economic problems. (1)
- Many large international organisations (1) established themselves in South Africa. (1)
- It led to white unemployment (1) and a conflict situation. (1)
- Unions had also been established in secondary industries and services (1) namely engineering, building, clothing, chemical, glass, laundry, sweets and leather trades. (1)
- As a result of the many unions being established in the mining and manufacturing sectors, (1) federations were being formed to streamline activities. (1)
- Mine owners warned workers that retrenchments were likely. (1)
- The development of new machinery threatened jobs. (1)

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- White miners once again feared that the black workers would replace them (1) since they were being paid lower wages.(1)
- It gave rise to the General Strike (1) or Rand Rebellion (1) of 1922 (1).
- The strike turned violent, and Smuts ordered the army to restore calm (1).
- 153 white miners were killed (1) 5 000 were arrested, and four were hung for treason (1).
- In1923 (1) the SANC changed its name to the ANC (1)
- The implementation of legislation to regulate labour relations (1) was essential after the Rand Rebellion.(1)
- In 1924 (1) the Industrial Conciliation Act was implemented (1) to regulate labour relations.(1).
- The Act made provision for (1) the following:
  statutory recognition (1)
  certain laws were recognised (1), and the
  registration of trade unions (1).
- In the event of labour disputes, new machinery was put in place to combat industrial unrest and help with collective bargaining and conciliation.
- This act and its amendments (1) ensured that a criminal charge would be laid against strike action (1) if negotiation had not taken place (1).
- It also stipulated that mediation and arbitration had to take place (1).
- Arbitration was compulsory for essential services (1).
- Trade unions and employer associations which had been formed on a voluntary basis (1) could register under the Conciliation Act (1).
- Trade unions together with employer associations could establish and register industrial councils (1) which became the recognised bargaining bodies (1).
- Agreements reached by these industrial councils (1) would be legally enforceable. (1)
- Conciliation councils (1) for disputes (1) were established by the Department of Labour (1).
- The Act supported dual systems (1).
- Blacks were excluded from the act (1) and could not join trade unions (1).
- The Act did not make provision for the recognition of any union which would represent a working black African–male (1) since the Act excluded pass-bearing natives.(1)
- Black females and coloured people from the Cape (1) did not have to carry passes (1) and were therefore excluded from this ruling (1).

(Any 24 × 1) (24)

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3.2 ECONOMIC SYSTEM (1)
- Product market (1)
- Labour market (1)
- Money market (1)
- Capital productivity (1)
- Technological changes (1)

POLITICAL SYSTEM (1)
- Legislative action (1)
- New legislation (1)
- Amend existing legislation (1)

LEGAL SYSTEM (1)
- Statutory law (1)
- Common law (1)
- Implement standard labour legislation (1)

SOCIAL SYSTEM (1)
- Goals (1)
- Values (1)
- Social structures (1)
- Public opinion (1) (Any 16 × 1) (16)

[40]

QUESTION 4

4.1 The characteristics of the SA economy:
- Low economic growth (2)
- Rich mineral wealth (2)
- Huge foreign debt (2)
- Unfavourable exchange rate (2)
- Not enough job opportunities for black workers in formal sector (2)
- Fast rate of mechanisation (2)
- Narrowing of wage gap (2)
- Weak economic infrastructure from homelands to cities (2)
- Lower productivity because of strikes (and other actions) (2)
- Shortage of skilled workers (2)
- High inflation rate (2)
- High unemployment (2)
- Shifts in demand, e.g. there is an influx of tourists which necessitates more persons in the tourism industry (2)
- Shifts in supply, e.g. increased immigration from African countries (2)
- Oversupply of unskilled workers (2)
- Undersupply of skilled workers in the engineering fields (2)
- Requirement of experience for entry-level positions (2)
- Mobility of employees, e.g. lack of housing and transport which affects the labour market (2)

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- Too few women in technical positions (2)
- Reputation for low productivity (2)
- Lack of entrepreneurial skills (2)
- Backlog in education and training (2)
- HIV/Aids (2)
- Crime (2)
- Uncertainty regarding casual labour and outsourcing (2)

NOTE: Also any other relevant facts about the South African economy for TWO marks each. (Any 12 × 2) (24)

4.2
- An office bearer or official (1) may enter premises to recruit members (1) to communicate with them (1) and serve their interests (1)
- Trade unions may hold meetings with employees (1) on the premises (1) outside working hours (1)
- Trade unions can have elections on the employers premises (1) but they must safeguard life or property (1) and prevent the disruption of work (1)
- Time and place must be reasonable (1) (Any 8 × 1) (8)

4.3 Good faith requires of the employee:
- To further the employer's business; (1)
- Not to compete with the employer; (1)
- Not to disclose confidential information (1) or trade secrets; (1)
- To refrain from dishonest conduct (1) such as theft, fraud, et cetera.(1)
- At common law, (1) the breach of this duty is generally regarded as a sufficient reason (1) for the employer, to summarily terminate the contract, without notice.(1)
- Dismissal for this reason will not necessarily be fair (1)

(Any 8 × 1) (8)
[40]

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QUESTION 5

5.1
- Each system has three parties (1) employer (1) employee (1) (primary parties) (1) and the state (1) (secondary party) (1)
- Each party has its own objectives (1) (goals participants wants to achieve) (1), values (1) (norms and standards valid for each one) (1), powers (1) (ability of participant to achieve his objective, in spite of resistance) (1).
- If the above mentioned groups clash (1) it leads to conflict (1)

(Any 12 × 1) (12)

5.2
- Is based on the Marxist theory (1)
- Balance of power (1) is not possible within capitalistic system (1)
- Root cause of conflict (1) not confined to employer/employee relationship (1) only.
- Root cause (1) is the capitalistic economic system (1) which establish structures in favour of the employer (1)
- Trade unions are supported (1) only if they act as agencies (1) towards total change (1)
- Trade unions are agencies towards total change (1)
- Radical perspective (1) is a popular viewpoint in South Africa (1)

(14 × 1) (14)

5.3
- During the first four weeks/6 months of employment (1) the employment contract must be terminated within 1 week's notice (1)
- After the first 4 weeks/6 months (1); or remainder of the first year (1); give two weeks notice (1);
- After 1 year's service (1); give 30 days/4 weeks notice (1).
- A farm worker or domestic worker (1) who has worked more than 4 weeks, must get 1 month's notice (1)
- Notice may be varied by a collective agreement (1);
- It must be in writing (1).
- Employer may pay the remuneration for the notice period (1); but the employee may still use accommodation for notice period (1)

(14 × 1) (14)
[40]

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QUESTION 6

6.1
- Statutory freedom of association was never formally forbidden in South Africa (1)
- It forms one of the main pillars (1) of collective labour relations (1)
- Every employee was free to associate with people of his own choice (1) and belong to a trade union (1)
- Black workers were not protected by law (1) before 1929 (1)
- According to the LRA (66/95) (1) freedom of association makes provision for employees and employers (1)
- That means that an employer may not dismiss an employee (1) because he belongs to a certain trade union (1) then that employer will be guilty of an offence (1) (Any 7 × 1) (7)

6.2 6.2.1
- Work performed between 18:00 (1) and 06:00 (1) must compensate the employee by an allowance (1) or reduction in working hours (1)
- Transportation must be made available (1)
- The employer must inform the employees about health and safety hazards (1) and on request (1) provide free medical assessment (1) (8 × 1) (8)

6.2.2
- The limits on ordinary and overtime working hours (1) and the requirements for meal intervals (1) and rest periods (1) do not prevent the performance of emergency work (1) (4 × 1) (4)

6.3
- No person may discriminate against an employee (1) for exercising their rights as conferred by this act (1)
- No person may threaten (1) or prejudice an employee or a person seeking employment (1) for exercising his rights (1)
- No person may advantage an employee or person seeking employment (1) in exchange for that person (1) not seeking any right conferred by this Act (1) (8 × 1) (8)

6.4
- Negotiations of collective agreements with labour unions (2)
- Assists members in dispute resolution (2)
- Assists and helps members in industrial relations (2)
- Represents industry members, views and interests to government or public (2)
- Facilitates training courses for members (2)
- Give legal aid and advice to companies (2) to represent the interests of the employer members when dealing with unions within bargaining councils (2)

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- To ensure similarity of remuneration, benefits and working conditions.
- To assist each other with information (2)
- To set guidelines for new members on policies and procedures (2)
- To manage funds (2) (Any 5 × 2) (10)

6.5
- In writing (1)
- Verbally (1)
- Through conduct alone (1) (3 × 1) (3)

QUESTION 7

7.1
- May make an appropriate order (1)
- including urgent interim relief including (1)
- an interdict (1)
- a declaratory reward (1)
- an award of compensation (1)
- an award of damages (1)
- an order for costs (1) (7 × 1) (7)

7.2
- An arbitration award issued by the CCMA is final and binding (1)
- If the award is a sum of money (1) the amount earns interest (1) from the date of the award (1) (4 × 1) (4)

7.3
Reasons for the dismissal (1)
Alternatives considered (1)
Number of employees and job categories affected (1)
Method for selecting employees (1)
Time when it will take place (1)
Severance pay (1)
Other employer assistance (1)
Future re-employment (1) (Any 7 × 1) (7)

7.4
- Labour relations must be based on (1)
  Trust (1)
  Integrity (1)
  Fairness (1)
- Mutual respect and trust (1) are essential in all relationships, (1)
- Reasonable actions in the workplace involve (1) parties knowing that no one will abuse his position (1)
- No suppression or exploitation takes place (1)
- Everyone keeps his word (1)
- Balance between the parties (1)
- Fair treatment (1)
- Honesty (1)

(Any 12 × 1) (12)

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7.5
- Supervise (1)
- Control (1)
- Manage (1)
- Hire workers (1)
- Promote workers (1)
- Discharge workers (1)
- Discipline workers (1)
- Maintain efficiency of workers (1)
- Decide what products and production methods to use (1)
- Relocate a plant or factory (1)
- Lock-out (1)
- Make company rules (1)
- Enter into contracts of employment (1)
- Further management prerogative includes exclusive and sole responsibilities re (1)
- Manufacturing and production (1)
- To decide on the location of plants (1)
- Schedules of production (1)
- Methods, processes and means of manufacturing (1)
- Close down a business (1)
- Build new facilities (1)
- Introduce new technology (Any 10 × 1) (10)

[40]

TOTAL SECTION B: 160
GRAND TOTAL: 200

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