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higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

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NOVEMBER EXAMINATION

NATIONAL CERTIFICATE

LABOUR RELATIONS N5

(4110455)

21 November 2013 (Y-Paper)
13:00–16:00

This question paper consists of 7 pages.

BUSINESS STUDIES

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DEPARTMENT OF HIGHER EDUCATION AND TRAINING
REPUBLIC OF SOUTH AFRICA

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

INSTRUCTIONS AND INFORMATION

1. This question paper consists of TWO section:

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

2. SECTION A is compulsory.

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

4. Read ALL the questions carefully.

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

6. Start each question on a NEW page.

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 Labour Relation Act (66/1995) prescribes a minimum wage.

1.2 The starting point for industrial relations is outside the workplace.

1.3 South Africa has an economic system based on communism.

1.4 A labour relations system operates in a particular workplace and specific industry.

1.5 High unemployment will most likely have a negative influence on labour relations.

1.6 A new employee may be placed on a reasonable probation period (66/1995).

1.7 The concept of a closed shop is constitutional.

1.8 The primary function of any trade union is individual bargaining.

1.9 The state and government have the same functions.

1.10 With permission a picket may take place inside the employer's premises (66/1995).

1.11 Bargaining councils replaced the old industrial councils.

1.12 Wages and salaries are substantive agreements.

1.13 The state is always seen as the secondary party in labour relations.

1.14 Labour can be separated from the humans who perform it.

1.15 Larger companies cannot dominate employer organisation.

1.16 There must be regular meeting of the workplace forum (66/1995).

1.17 The Basic conditions of Employment Act (1998) prohibit forced labour.

1.18 A labour inspector may only enter a home with the permission of the owner.

1.19 According to the Declaration of Philadelphia labour is a commodity.

1.20 Agreements are not part of collective bargaining or negotiations.

(20 x 1) **[20]**

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QUESTION 2

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

COLOMN A		COLOMN B
2.1	Capitalism	A exclusion of employees from the workplace by the employer (66/1995)
2.2	Individual bargaining	B employer bargains with employee
2.3	Lockout	C state enterprises are mostly unproductive
2.4	Socialism	D carries out policies
2.5	Employer	E employees stop working to influence the employer (66/1995)
2.6	State	F is the policy maker
2.7	Employer	G promotes private initiative
2.8	Strike	H wants the best remuneration
2.9	Government	I employer bargains with trade unions
2.10	Collective bargaining	J strives for maximum profit

(10 × 2) (20)

TOTAL SECTION A: 40

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SECTION B

INSTRUCTIONS

1. Answer any FOUR of the five questions
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 country'.

With references to this statement, discuss the following labour relations history period in South Africa: 1948 to 1979. (24)

3.2 'Labour is not a commodity to be exchange on an open marked'.

With reference to this statement, explain the principle/characteristics of labour. (16)
[40]

QUESTION 4

4.1 Discuss the influence of the following factors on an Industrial Relation system:

4.1.1 Socio-political ideology (18)

4.1.2 Economic forces (10)

4.2 Discuss SIX goals/objectives of trade unions. (6 × 2) (12)
[40]

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QUESTION 5

5.1 Complete the following sentences by filling in the missing word(s). Write only the word(s) next to the question number (5.1.1–5.1.4) in the ANSWER BOOK.

5.1.1 Centralised bargaining takes place at (shop floor/industry) level and decentralised bargaining takes place at (shop floor/industry) level. (2 × 2) (4)

5.1.2 Centralised bargaining is also known as (formal/informal) bargaining and decentralised bargaining is known as (formal/informal) bargaining. (2 × 2) (4)

5.1.3 The (recognition/agency shop/closed) agreement spells out the rules and regulations for the bargaining process. (1 × 2) (2)

5.1.4 Many industries prefer (centralised/decentralised) bargaining, but many black trade unions prefer (centralised/decentralised) bargaining. (2 × 2) (4)

5.2 Discuss SIX objectives/reasons for the implementation of the Labour Relation Act (66/1995). (6 × 2) (12)

5.3 Discuss the following methods of state intervention:

5.3.1 State as advisor (6)

5.3.2 State as judiciary (8)

[40]

QUESTION 6

6.1 Complete the following sentences by filling in the missing word(s). Write only the word(s) next to the question number (6.1.1–6.1.14) in the ANSWER BOOK.

6.1.1 The maximum weekly ordinary working hours of are (45/48), but the employee may not work more than (10/12) hours per day. (2)

6.1.2 The maximum daily hours for an employee working 5 days or less are (9/10) and for more than 5 working days it is (9/8). (2)

6.1.3 Overtime, working on public holidays and Sundays may only be worked by (order/agreement). (1)

6.1.4 Payment for overtime is (1,5 times/1,75times) the normal pay. (1)

6.1.5 An employee must have a meal break of at least (60/30) minute after (5/6) hours. (2)

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6.1.6 Every employee must have a daily rest period of at least (15/12) hours and each week at least (24/36) hours (2)

6.1.7 An employee who occasionally works on a Sunday must receive (1,5 times/double) pay and the employee who normally works on a Sunday, must receive (1,5 times/double) pay. (2)

6.1.8 Employee is entitled to (4/3) weeks full paid leave after every (12/24) months-continuous employment. (2)

6.1.9 An employee is entitled to (6/12) weeks paid sick leave for every (36/48) month's continuous service. (2)

6.1.10 A pregnant women is entitle to (4/6) months maternity leave, and may return to work (6/8) weeks after the birth of the child. (2)

6.1.11 An employee is entitle to (3/6) days paid family responsibility leave in a (1/2) year cycle. (2)

6.1.12 A child under (16/18) years may not be employed to do work inappropriate for their age and no person may employ a child under (15/16) years. (2)

6.1.13 Particulars of employment must be kept (4/5) years after the end of the contract. (1)

6.1.14 On termination of employment, an employee is entitling to a certificate of (health/service). (1)

6.2 Discuss the term severance pay (66/1195). (6)

6.3 Discuss the tripartite labour relationship. (6)

6.4 Name FOUR sources of labour law in South Africa. (4)
[40]

QUESTION 7

7.1 Discuss the general function of the workplace forum (66/1995). (4)

7.2 Explain the deduction of trade union subscriptions/levies (66/1995). (10)

7.3 Discuss the meaning of dismissal (66/1995). (6)

7.4 State SIX reason for trade union development. (6)

7.5 Discuss conflict within the labour relationship. (14)
[40]

TOTAL SECTION B: 160
GRAND TOTAL: 200

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MARKING GUIDELINE

NATIONAL CERTIFICATE

NOVEMBER EXAMINATION

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21 NOVEMBER 2013

This marking guideline consists of 12 pages.

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SECTION A

QUESTION 3

1.1 False

1.2 False

1.3 False

1.4 True

1.5 True

1.6 True

1.7 False

1.8 False

1.9 False

1.10 True

1.11 True

1.12 True

1.13 False

1.14 False

1.15 False

1.16 True

1.17 True

1.18 True

1.19 False

1.20 False

(20 × 1) **[20]**

QUESTION 2

2.1 G

2.2 B

2.3 A

2.4 H

2.5 C

2.6 D

2.7 J

2.8 E

2.9 F

2.10 I

(20 × 1) **[20]**

TOTAL SECTION A: 40

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SECTION B

QUESTION 3

3.1

- 1948 to 1979
- 1948; The National Party came to power.
- Previous segregation policies of the past; became the permanent policy of apartheid.
- They announced a policy of apartheid and segregation (isolation).
- This policy tried to prevent racial integration and made provision for greater economic; and political security amongst whites.
- The policy underwent little change in the ensuing 20 years.
- During this time people of colour had limited if no voting rights.
- Different rules and even laws were applicable to different racial groups.
- The white population operated according to the principle of individualism and the free-market system.
- The black population did not have the right to these two choices.
- The apartheid government characterised themselves as a Christian government.
- The socialist ideology was not popular and persons who followed this ideology were prosecuted and even jailed.
- Many laws were promulgated which caused more polarisation between the races.
- Jobs were scarce and the influx of the blacks and white farmers and their families from the rural areas; made worse by the many immigrant worker.
- Work supply to blacks; was strictly controlled through legislation.
- Restriction was placed on:
  - Where blacks may live
  - Where they may work
  - Under what conditions they may work
  - The removal of blacks from certain areas
  - Employers who employed blacks
- The Suppression of Communism Act was announced.
- It had a profound effect; on trade unionism and strikes.
- Trade union membership declined drastically.
- In 1948; the Botha Commission; examined the:
- The Black Labour Act of 1953.
- The Industrial Conciliation Act of 1956.
- The right of blacks were restricted further.
- Coloureds and Indians were also restricted; in terms of trade union membership; and could no longer form part of mixed trade unions.
- Certain work was reserved for certain groups.
- It further attempted to reduce the economic dependence on black labour.
- It argued that if equal work opportunities were offered to blacks; it would lead to equality amongst the races; and this would threaten white supremacy.

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- Separate bargaining bodies for blacks had to be established.
- Recognition of black unions had to be subject to very strict rules.
- Strike action had to be outlawed.
- Black trade unions should not be encouraged to exist.
- The Black Labour Relations Regulation Act also known as Bant.
- Labour (Settlement of Disputes) Act; of 1953; made provision for certain mechanics to resolve disputes.
- The act made provision for a system of 'Workers' Committees'.
- These committees were supposed to be a forum to which black workers would bring work problems.
- These committees were largely ignored by the black workers since it operated under a white chairman.
- The reporting body, the Black Labour Board had an all-white membership.
- Only one committee consisting of five members per plant was allowed.
- This was a long process; and the power of the black employee declined.
- More than 50% of the labour force in the private sector; had no access to a legitimate system of collective bargaining.
- In 1953; the Act on Separate Amenities was implemented.
- Legislation which was promulgated was the Industrial Conciliation Act of 1956.
- (later known as the Labour Relations Act of 1956) Some of its elements were:
- It was the basis for labour legislation relating to collective bargaining.
- It excluded black African women from the definition of 'employee'
- It did not allow mixed race unions.
- It restricted registered mixed race unions.
- Mixed race unions were not allowed to have mixed race executives.
- It introduced a system of job reservation (not only for whites).
- In 1957; and 1958; militancy started to increase.
- It led to the establishment of local councils in various black areas.
- Existing black unions operated as black political parties.
- These also disappeared when banning became widespread during the 1960s.
- 1960; blacks clashed with police; and 60 people were killed.
- The ANC and PAC were banned.
- Countrywide unrest broke out; in 1961; after the establishment of the military wings of the ANC and PAC.
- The Republic of South Africa was proclaimed in May 1961.
- It withdrew from the Commonwealth; in part because of international protests against apartheid.
- By 1969; there were few black trade union members; because they could not express themselves; by means of mass action.
- 1970; a division in the National party took place.
- 1970; beginning of Black Conscious Movement; and students broke away from student bodies.
- Between 1950 and 1970; white trade unions calmed down and strikes were less.

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- As a result of the political turmoil which was raging in the country the banning and strict pass laws as well as a result of international pressure black people became more determined to exercise their rights.
- The economy was in an upswing and black workers moved into skilled positions.
- Black people were the majority of the economically active population.
- The movement to change gained momentum during the 1970s.
- Many institutions were created to assist with the communication between black workers and the white employers.
- They also demonstrated their collective power; and the necessity for government to deal with their action.
- All the industrial action that took place was illegal and unprotected; but no arrests were made.
- New black trade unions started up.
- In 1974; the first plant-level recognition agreement between black workers and white employers was signed.
- 1973 to 1975; many strikes and labour unrest occurred.
- 1977; the Wiehahn Commission was appointed; to investigate problems in the labour field.
- Some of the elements of the Wiehahn Commission were:
  - The purpose was to rationalise the existing labour legislation.
  - The commission had to find ways to adapt the existing labour legislation to the needs of the entire society.
  - The commission had to propose ways to incorporate black labour relations into the white industrial relations system. (Any 24 × 1)

3.2
- Labour is not a commodity to be exchanged on the open market.
- There are different markets for different levels of skills, careers, generations, age groups, etc.
- The price of the product cannot be compared with the price of labour.
- Many factors must be considered.
- No central storage system exists whereby labour can be stored and made available on demand.
- The employee wants satisfaction in his work environment and personal growth.
- Employees are not available in a specific standard format because they have different personalities, abilities, etc.
- Employees are not similar in terms of demographic aspects.
- The duration of the service relationship is liquid and unpredictable because the employee can at any stage decide to end the relationship.
- Can change depending on circumstances.
- Every employer and employee has his own objectives, expectations and aspirations.
- The employer/employee relationship has certain agreements because the desires of both parties must be met.
- Agreements regulate the activity of labour.

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- Collective and individual actions are used; to protect both parties' interests.
- Conflict originates; because of differences in interests.
- Conflict exists as a result of labour.
- The employee is in search of job security and income; and the employer requires productivity.
- Collective bargaining is used; to protect and promote interests.

(Any 16 × 1) (16)
[40]

QUESTION 4

4.1 4.1.1 **INDIVIDUALISM**

- Freedom of the individual
- Free to make own choices
- Propagates individualism
- Supports a democratic majority government
- Supports or gives recognition to minority representation
- Legislation protects all parties
- Conflict, which is unavoidable
- is accommodated by special provisions
- In the governing system
- Most employers prefer individualism
- Individualism refers to freedom of individuals
- and freedom of individual choices
- Individuals have little or no responsibility towards society and society has little or no obligation towards them
- Individualism also refers to the principle of democratic government
- where all parties will have proportional representation
- Legislation (especially the Constitution) protects the principle of individualism fiercely
- and therefore redress for individuals or minority groups are promulgated
- Minimum interference by the government is pursued

COMMUNITY OF INTERESTS

- Legislation makes provision for all parties (employer, employee and state)
- Community possession or action
- All parties have the same benefits and protection
- Government exercises control over the community

Individual interests are:

- Subordinate to the interests of the society
- Legislation protects the society/community
- Most employees and their representatives prefer the community approach

- The community approach refers to the situation where individual interests are subordinate to the interests of the larger group or society
- Communities believes that individuals are shaped by society and self and individual choice should not be allowed
- It is also believed that it is the duty of a government to shape and control society
- Governments should be bigger and bureaucracy should be increased
- Employers prefer to deal with employees in groups and not as individuals
- Legislation, exercises control over communities and groups

(Any 18 × 1) (18)

4.1.2
- The state of a country's economy plus the responsible parties possess certain powers.
- They put pressure on the other parties to change the industrial relations system; so that it benefits the country's economy.
- The power of a country's economy lies in its capital; and manual labour.
- The power of trade unions in South Africa is observed in the scope of changes in labour relations; in the past 15 years.
- The economy of a country can have a vast influence on an industrial relations system.
- Economic growth or stagnation and level of unemployment all have an influence on collective bargaining.
- Unemployment as a result of a weak economy will put a strain on the industrial relations system.
- It will encourage political activities within the system as well as encourage more forceful collective action.
- It could influence the approach of the employer by providing the unskilled employees with training and new skills. (Any 10 × 1) (10)

4.2
- To unite and organise employees in various industries to one strong body
- To protect and further interests/welfare of members
- To ensure economic and social justice
- To resist retrenchment (strive to full employment)
- To ensure democracy at workplace
- To fight racism and sexism
- To promote, support and unite trade unions (Fed's)
- To ensure solidarity (unity) with trade unions in other countries
- To create funds to benefit union members
- To provide legal assistance regarding employment
- To resolve grievances
- To ensure job security and income
- To improve physical working and safety

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- To enforce legislation and agreements
- Improve the terms of employment
- Achieve security of employment and income
- Achieve full employment
- Improve social security
- Achieve industrial democracy
- Achieve a voice in government
- Improve public and social services
- Engage in collective bargaining
- Ensure that collective agreements are adhered to
- Ensure that workers human rights are adhered to
- Achieve public control and planning of industry (Any 6 × 2) (12)

[40]

QUESTION 5

5.1 5.1.1 Industry
Shop floor (2 × 2) (4)

5.1.2 Formal
Informal (2 × 2) (4)

5.1.3 Recognition (2)

5.1.4 Centralised
Decentralised (2 × 2) (4)

5.2
- To give effect to section 27 of the constitution
- To give effect to section 23 of the constitution
- The right to strike and bargain collectively
- To regulate the organisational rights of trade union
- To promote and facilitate collective bargaining at the workplace and sectoral level
- To regulate the right to strike in conformity with the constitution
- To promote employees participation in decision-making through the establishment of workplace forums
- To provide simple procedures for the resolution of labour disputes through statutory conciliation, mediation and arbitration
- Establish labour court and labour appeal court to provide for a simplified procedure for the registration of trade union and employers organisations
- To give effect to the public international law obligations of SA relating to labour relations
- To amend and to repeal certain laws relating to labour relations to provide for incidental matters (Any 6 × 2) (12)

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5.3 5.3.1
- It does research
- It establishes watchdog bodies e.g. NEDLAC
- It monitors developments
- Industrial relationships
- It suggests innovations or new methods to participants
- It produces guidelines on the conduct of the labour relationship

(Any 6 × 1) (6)

5.3.2
- The judiciary is an instrument of the state
- It determines common law
- Relating to the employment relationship
- It interprets and applies statutes (written laws) passed by government
- It regulates the labour relations
- It deals with special labour courts e.g. to interpret fairness
- Labour courts are introduced
- Specifically to deal with matters
- Tribunals/Industrial courts are introduced to adjudicate in industrial disputes

(Any 8 × 1) (8)
[40]

QUESTION 6

6.1	6.1.1	45–10	(2)
	6.1.2	9–8	(2)
	6.1.3	agreement	(1)
	6.1.4	1,5	(1)
	6.1.5	60–5	(2)
	6.1.6	12–36	(2)
	6.1.7	double–1,5	(2)
	6.1.8	3–12	(2)
	6.1.9	6–36	(2)
	6.1.10	4–6	(2)
	6.1.11	3–1	(2)

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6.1.12 18–15 (2)

6.1.13 4 (1)

6.1.14 Service certificate (1)

6.2
- Dismissal because of operational requirements
- One weeks remuneration
- For each completed year of continuous service with the employer
- An employee who unreasonably refuses alternative employment
- With the employer or alternative employer
- Is not entitled to severance pay (6 × 1) (6)

6.3
- Parties are: employees, employers and state
- The employers and employees
- The main or primary partners
- The state is a secondary partner (3 × 2) (6)

6.4
- Common law
- Roman Dutch Law
- English Law
- Case law
- International law
- Customs and practice
- Contracts of employment
- Collective agreements
- Constitutional stipulations (Any 4 × 1) (4)

[40]

QUESTION 7

7.1
- To promote the interests of all employees
- To enhance the efficiency in the workplace
- To be consulted by the employer
- And to reach consensus on matters
- To participate in joint decision making (Any 4 × 1) (4)

7.2
- The employees may ask the employer to deduct subscription fees from their wages
- The employer must pay the fees to the trade union no later than the 15th day of the month
- The employees may revoke the deduction if they give one months written notice to the employer and the trade union

With the remittance the employer must give the trade union:
- List of names and deduction
- Details of amount and periods
- A copy of every notice of revocation (Any 10 × 1) (10)

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7.3
- The employer terminated the contract of employment
- The employer renews the contract on less favourable terms; or did not renew it
- The employer refuses to allow the employee to resume work after maternity leave
- The employer dismissed a number of employees but offered to re-employ some collective re-employment
- The employer made continued employment intolerable for the employee; constructive dismissal (Any 6 × 1) (6)

7.4
- The conditions of the working class
- Divorce between workers from owners
- Poor working conditions and wages
- Mass production/specialisation/division of labour
- Independence of discipline/severe discipline
- Labour as a commodity
- Economic insecurity and dependence
- The class system
- Polarisation of workers
- Industrialisation/Mechanisation (Any 6 × 1) (6)

7.5
- Conflict within the labour relationship cannot be ignored.
- Conflict is an inherent component of the labour relationship
- And this is why processes have been created to deal with it
- Many factors can lead to conflict within the labour relationship
  Conflict can originate around:
- Wages, benefits, distribution, status, decision making, responsibilities, control and personal values, aims, religion and ideology.
- Management must ensure that costs are kept as low as possible
- Organisations want to make as much profit with as little expenditure as possible
- Workers want the best remuneration possible
- And not necessarily interested in working longer hours
- It is however possible to have positive and functional conflict
- Conflict is not necessarily undesirable as it combats stagnation
- Functional conflict prevents stagnation
- Competition is a form of positive conflict
- Individuals or groups who strive for the highest ideals will perform to their highest abilities to reach these ideals ahead of others
- This can only be beneficial to the individual, group and organisation.
- It can be counter productive if it is destructive
- Negative or dysfunctional conflict breaks down
- Labour relations exists to minimise the effects of negative conflict
- Collective bargaining is directed at preventing one party's interest being prioritised above that of the other party (Any 7 × 2) (14)

[40]

TOTAL SECTION B: 160
GRAND TOTAL: 200

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