higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LABOUR RELATIONS N5

28 NOVEMBER 2018

This marking guideline consists of 9 pages.

Copyright reserved

SECTION A

QUESTION 1

1.1 True
1.2 True
1.3 True
1.4 True
1.5 False
1.6 True
1.7 True
1.8 True
1.9 False
1.10 True
1.11 True
1.12 False
1.13 True
1.14 False
1.15 False
1.16 True
1.17 True
1.18 False
1.19 True
1.20 False

(10 × 2) **[20]**

QUESTION 2

2.1 J
2.2 H
2.3 B
2.4 F
2.5 I
2.6 G
2.7 D
2.8 E
2.9 A
2.10 C

(10 × 1) **[10]**

Copyright reserved

QUESTION 3

3.1 D
3.2 C
3.3 B
3.4 B
3.5 A
3.6 D
3.7 B
3.8 A
3.9 C
3.10 B

(10 × 1) **[10]**

TOTAL SECTION A: 40

SECTION B

QUESTION 4

4.1 4.1.1 Family responsibility leave

- The employee works for at least four days a week
- He/She has been in employment for longer than 4 months
- Leave is granted when the employee's child is born, death of close family member (for example. child, spouse and parents et cetera.)
- Leave is granted when the employee's child is sick

Maternity leave

- A pregnant women is to 4 months' unpaid maternity leave
- Maternity leave may begin up to 4 weeks before the expected date of birth
- Maternity leave may be agreed otherwise if so on account of the health of the employee

Sick leave

- The employee is entitled to 6 weeks paid leave for every 36 months of continuous employment
- This refers to 3- year cycle
- During the first 6 months of employment, an employee is entitled to only 1 day of paid sick leave for every 26 days worked
- Where the employee is ill for 2 days or less, no medical certificate is required

Annual leave
- Employees are entitled to 3 weeks' (21 consecutive days) fully paid leave after every 12 months of continuous employment
- This is also calculated a 1 day's leave for every 17 days of employment
- The employee may not pay an employee instead of granting annual leave- he or she must take leave
- The employee may not take leave during notice of termination of employment

(4 × 3) (12)

4.1.2 Employee's name and occupation
Time worked
Remuneration paid
Date of birth if under 18 years of age (4)

4.2 4.2.1
- Per week – not more than 45 hours (maximum)
- Daily hours- if employees work 5 days or less in any week – 9 hours per day
- If employees work a 6- day working week: - 8 hours per day. (3)

4.2.2
- May only be worked by agreement
- An employee may not work more than 12 hours per day
- (It means, therefore, that an employee cannot work more than 3 hours of overtime per day)
- Overtime may not be more than 10 hours per week
- Unless agreed by way of collective agreement
- The maximum is then 15 hours per week, but not for more than 2 months per year
- Repayment for overtime: 1,5 times the employee's normal wage, or a period of paid time off equivalent to the value of the overtime pay if agreed. (5 × 1) (5)

4.2.3
- Employees must occasionally work on a Sunday
- They must receive double pay
- If employees normally work on Sundays, they get 1,5 times their normal pay
- If agreed, the employee can receive compensation by way of paid time off. (4)

4.2.4
- The employee must have a meal interval at least 60 minutes (1 hour) after 5 hours
- This may be reduced to 30 minutes by agreement
- Where the employee works less than 6 hours per day, the meal interval may be left out (Any 2 × 2) (4)

Copyright reserved

4.2.5
- The profession has fewer doctors in South Africa which result in them compromising their working hours to assist patients.
- A failure on behalf of the government to take cognisance of the consequences related to medical doctors who work overtime.
- They can't leave the injured and the sick without anybody taking care of them.
- Lack of doctors in our country as they go abroad.
- There is an argument that you choose medicine because you want to serve. (5)

4.2.6
- No, it's their career and the best way is to serve
- They can negotiate with the department
- Supervisors can arrange or schedule relevant working hours or shifts (Any other relevant answer 3 × 1) (3)

[40]

QUESTION 5

5.1
- State is a policy performer
- Government is the policy maker (2 × 2) (4)

5.2
- Blacks were excluded of the collective bargaining system before 1979
- Since 1979 until today all employees enjoy the freedom of collective bargaining
- However, the state system remains voluntary
- The state protects the basic interest of both parties
- The state creates mechanism to resolve disputes
- Employees choose or prefer recognition at organisation level.
- The result is a dual collective bargaining system (Any 6 × 2) (12)

5.3
- To provide in the basic needs of community (RDP) and to ensure reconstruction and development
- To development the economy
- To promote democracy in the workplace
- To oppose social inequality
- To develop competence or skills of workers (5 × 2) (10)

5.4
- An effective communicator
- Able to make objective judgement
- Able to make rapid/fast decision
- Committed, diligent, fair-minded
- Knowledgeable in trade union, employee and management affairs
- Must have trust and respect to management, union and employees

(7 × 2) (14)

[40]

QUESTION 6

6.1
- Grievance procedure
- Disciplinary procedure
- Retrenchment procedure
- Dispute procedure
- Appeal procedure (5)

6.2
- Product market – production process, machines, labour, distribution, competition and advertisements.
- Money market – availability of money, interest rates, internet payment.
- Labour market – availability of skilled labour, willingness to be productive, knowledge of business, competition from other countries.
- Capital productivity – availability of machines, cost of machines, infrastructure of the country.
- Technological changes – availability of technology to do the job, effectiveness of the technology, how quickly new technology is available.

(5 × 3) (15)

6.3 Procedural agreement

Refer to agreements on procedures to be followed:
- Union recognition agreements can also be concluded.
- Unresolved conflict can lead to a breakdown in relationship resulting in dismissal of workers and a loss of production.
- Include rules for disciplinary, grievance, retrenchment and dismissal procedures.
- It usually focuses on economic. (Any 2 × 2)

Substantive agreements
- Refers to the bread and butter issue.
- Include agreement on working conditions (conditions of service), wages and fringe benefits.
- They are normally renegotiated every year or every three years.
- Bonuses, holidays and productivity. (Any 2 × 2)

(4 × 2) (8)

6.4
- A fair reason
- Fair procedure
- The dismissal penalty must be acceptable
- The facts of the case must be strong
- Capacity of the employee
- Operational requirements of the employer's business (6 × 2) (12)

[40]

QUESTION 7

7.1 7.1.1

CAPITALIST	SOCIALISM
• Market-based economy • Promotes economic freedom • Private ownership • Goods and services are produced to make a profit • The drives incentives for producers to engage in economic activity • Profit is reinvested into the economy • Economic growth is stimulated • Conflict is accepted within the industrial relations system • Mechanism are provided for conflict resolution • A theory based on a free market system • Ownership is ascribed to be individual person (Any 6 × 1)	• Centrally controlled market • No economic freedom for individual • Public ownership • Individuals are compensated based on the principle of individual contribution • The state provides employment • Workers are unmotivated and unproductive. • Economic growth is not stimulated • No special provision is made to accommodate conflict • The symptoms of conflict are smothered as soon as possible • A theory based on the holding of most property in common • Actual ownership is ascribed to the workers (state) (Any 6 × 1)

(12)

7.1.2

- Individual interests are subordinate to the interests of society.
- The government exercise control over the community.
- All parties have the same benefits and protection.
- Legislation: makes provision for all parties.
- Protects the society.
- Conflict is not tolerated.
- Community possession. (7)

7.2

- Parties to the dispute should try to resolve it through conciliation and mediation before referring the matter for arbitration or adjudication.
- The CCMA is a neutral statutory body that assists parties to resolve disputes in the field of labour relations.
- The CCMA must appoint a commissioner to use conciliation to resolve the dispute.
- Parties may appear in person or may be represented. (NO legal representation)
- The commissioner determines the process used to resolve the dispute as mediation, fact finding and advisory award. (5 × 2) (10)

Copyright reserved

7.3 Employer

- Is a primary role player.
- Controls and supervises the business and labour.
- Can join the employer's organisation. (3)

Employee

- Is a primary role player.
- Puts his or her services at the disposal of the employer.
- Works under the supervision and control of the employer.
- Is employed to perform a specific task, and is paid for it.
- Can join the trade union. (Any 4 × 1) (4)

State

- The state is a secondary role player.
- Is an outsider.
- Acts as a servant by assisting the primary role player to function within a legal framework.
- It acts as a master by providing the employer and employee with legal framework and ensuring the enforcement of laws. (4)

[40]

QUESTION 8

8.1

- The organisation must be representative of the employer body in the region and in the number of employers.
- However, the number of new registrations has declined lately because of lack of interest in central bargaining with unions.
- They rather bargain individually with employees.
- If it has adopted a name that meets the requirements of subsection 4.
- If it is independent.
- If it has adopted a constitution that meets the requirements of subsection 5 and subsection 6.
- If it has an address in the Republic of South Africa.

(Any relevant answer 4 × 1) (4)

8.2
- To enforce legislative and agreements.
- To improve physical working and safety.
- To ensure job security and income.
- To resolve grievance.
- To provide legal assistance regarding employment.
- To fight racism and sexism.
- To ensure democracy at workplace.
- To establish CB mechanism.
- To resist retrenchment.
- To ensure economic and social justice.
- To promote and further interest of members.
- To unite and organise in various industries to one strong body.
- To promote, support and unite Trade unions.
- To ensure solidarity. (14)

8.3
- Collective bargaining.
- Strike.
- Court or legal again.
- Collective action.
- Closed shop principles or agreement.
- Establishment of benefits funds.
- Establishment of grievance, disciplinary and appeal procedures.
- Media. (Any 5 × 1) (5)

8.4
- The conclusion d enforcement of agreements.
- The prevention or resolution of disputes.
- Training.
- The creation of pension, provident, medical aid, sick pay and holiday, unemployment and training funds and schemes.
- The development of policies and legislation for the sector.
- The determination, by way of a collective agreement, of those matters that may not be an issue in dispute for the purpose of a strike or lockout.

(6 × 2) (12)

8.5
- Sadtu
- Naptosa/Nehawu
- Denosa
- Popcru
- Numsa
- Num (Any 5 × 1) (5)

[40]

TOTAL SECTION B: 160
GRAND TOTAL: 200

Copyright reserved