higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LABOUR RELATIONS N5

28 September 2020

This marking guideline consists of 7 pages.

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SECTION A

Answer all the questions in SECTION A.

QUESTION 1

1.1 B
1.2 B
1.3 D
1.4 D
1.5 D
1.6 C

(6 × 1) **[6]**

QUESTION 2

2.1 True
2.2 False
2.3 False
2.4 False
2.5 True
2.6 True
2.7 True
2.8 True
2.9 False
2.10 True

(10 × 1) **[10]**

QUESTION 3

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

(15 × 1) **[15]**

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QUESTION 4

4.1 Position

4.2 Hours of work

4.3 Remuneration

4.4 4.4.1 Study
4.4.2 Sick/Family responsibility

4.5 Example: 10:00 – 11:00 (6 × 1) (6)

4.6 State, employer and employee (3 × 1) (3)
[9]

TOTAL SECTION A: 40

SECTION B

Answer any FOUR of the five questions in SECTION B.

QUESTION 5

5.1
- The employee takes part in a protected strike.
- The employee refuses to do work normally done by an employee who is on strike, unless that work is an essential service.
- To compel the employee to accept demands in respect of any matter of mutual interest between the employer and employee.
- The employee takes action against the employer by exercising any right or proceedings in terms of the Act.
- The employee is pregnant.
- The employer unfairly discriminates against the employee. (6 × 2) (12)

5.2
- The employer terminates the contract of employment.
- The employer renews the contract on less favourable terms or does not renew it at all.
- The employer refuses to allow the employee to resume work after maternity leave.
- The employer dismisses a number of employees but offer to re-employ some.
- The employer makes continued employment intolerable for the employee. This is called 'constructive dismissal'. (5 × 2) (10)

5.3
- The workplace rule is a reasonable rule.
- The employee definitely knew or really should have known about this rule.
- The rule is always meant to be followed and the employer always asks employees to follow it.
- Dismissal is a suitable punishment for breaking this rule.
- If the application of the rule was consistent. (5 × 2) (10)

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5.4 5.4.1 Reinstatement is the action of giving someone back a position they have lost.

5.4.2 Remedy is used by a court to enforce a law, impose a fine or issue another applicable court order to compensate for damage done to an individual.

5.4.3 Incapacity is physical or mental inability to do something or to manage one's affairs.

5.4.4 Procedural relates to an established or official way of doing something.

(4 × 2) (8)
[40]

QUESTION 6

6.1
- Must advice employees and employers of their rights and obligations in terms of an employment law.
- Must conduct inspections.
- Must investigate complaints made to a labour inspector.
- Can issue compliance orders, but are not obliged to do so.
- Must perform any other prescribed function.
- May not perform a function if there is a conflict of interest. (Any 5 × 2) (10)

6.2
- Power to protect and support individual workers
- Economic regulations, wages
- Job regulations
- Social changes
- Self-fulfilment (5 × 2) (10)

6.3
- Annual 100% bonus for lower earners
- 7% salary increment
- 13th cheque
- 70% bonus
- 80% bonus from R470 000 and upwards (5 × 2) (10)

6.4
- Freedom of association is always part of labour relations in SA.
- It forms one of the main pillars of the collective labour system.
- Every employee is free to associate.
- In the past not all employees were protected by the law.
- It is a right to belong to a trade union and a right to strike.
- If an employer dismisses employees because they belong to a trade union, then that employer is guilty of an offence. (Any 5 × 2) (10)

[40]

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QUESTION 7

7.1
- Employees have the right to strike and employers have the right to lockout.
- It can only happen if there has been a dispute and an effort has been made to solve this dispute by taking it to a bargaining council.
- If the dispute has not been resolved, then a strike can happen, but only if:
  - There is a certificate saying that the labour dispute could not be sorted out.
  - 30 days have gone by since the dispute was sent to the bargaining council or to the CCMA.
  - At least 48 hours before the strike will start, a written notice must be sent to the employer and any employer's organisation that the employer has joined.
- If employees work for the government, they must give seven days' written notice before they strike.
- If the dispute has not been resolved, then a lockout can happen.

(Any 4 × 2) (8)

7.2
- Collective bargaining with trade unions.
- Advise the state on labour laws and policies.
- Give employers the same right.
- Form collectives as employees have to form trade unions.
- Further the interest of the business that they represent. (5 × 2) (10)

7.3
- Medical aid
- Pension fund
- Annual bonus
- Monthly car allowance
- Leave days (5 × 2) (10)

7.4
- Poor communication
- Difference in personalities
- Different values
- Sharing of profits (Any 3 × 2) (6)

7.5
- The employee is obliged to obey the employer's lawful commands or orders.
- Whether or not a command or order is lawful depends on the agreement between the employer and the employee concerning the nature and content of the employee's duties.
- The employer must be careful that dismissal due to disobedience does not turn into unfair dismissal. (Any 2 × 2) (4)

7.6 Not allowed to join a trade union (2)

[40]

QUESTION 8

8.1 8.1.1 A grievance is an actual or supposed circumstance regarded as a just cause for complaint.

8.1.2 Conflict of interest is conflict between a person's private interests and public obligations.

8.1.3 Socialism is the system of social organisation in which the means of producing and distributing goods is owned collectively by a centralised government that often plans and controls the economy.

8.1.4 Community of interest is a community of people who share a common interest or passion. These people exchange ideas and thoughts about the given passion, but may know little about one another outside this area.

(4 × 4) (16)

8.2
- Resolves labour disputes through conciliation.
- Resolves labour disputes through arbitration.
- Helps establish workplace forums.
- Puts together information about how the CCMA works and what it has done.
- Gives advice and legal help.
- Becomes involved in dispute prevention.
- Makes rules and offers guidance.

(Any other relevant definition) (Any 6 × 2) (12)

8.3
- The employment contract between employers and employees forms the basis of their relationship.
- It is an official document and is legally binding.
- The contract establishes the boundaries of the relationship between the employers and the employees and includes matters such as working hours, duties, different types of leave and remuneration.
- It also lists the responsibilities of both parties.
- Terms of the relationship won't be clear without it.
- Without it there is no recourse. (6 × 2) (12)

[40]

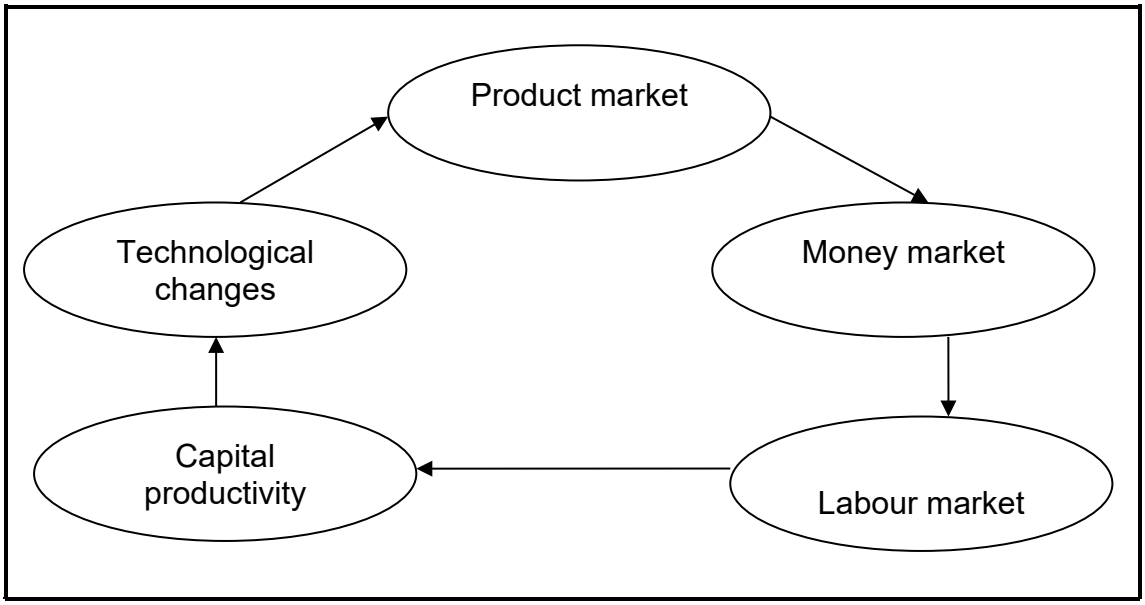
QUESTION 9

9.1
9.1.1 Skills Development Act
9.1.2 Occupational Health and Safety Act
9.1.3 Labour Relations Act
9.1.4 Unemployment Insurance Act
9.1.5 National Minimum Wage Act

(5 × 2) (10)

9.2
- An independent and impartial third party who carefully considers and analyses the evidence put before him/her.
- Drawing on knowledge of relevant laws and policies in order to weigh up each party's case and make a resulting ruling.
- Unlike a judge, an arbitrator is actually chosen by the disputing parties in lieu of formal court proceedings.
- He/she may be selected specifically for his/her knowledge of the industry particularly in complex cases where specialised expertise might be required. (4 × 2) (8)

9.3



(5 × 2) (10)

9.4
- Resolve it through CCMA.
- CCMA is a neutral body that assists to resolve disputes.
- Can be used by anybody free of charge.
- Mediation, conciliation and arbitration are part of the process. (4)

9.5
- Promote the interests of all employees.
- Make the workplace as effective as possible.
- Consult with employees.
- Take part in joint decision making with employers. (4 × 2) (8)

[40]

TOTAL SECTION B: 160
GRAND TOTAL: 200

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