higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

JUNE EXAMINATION

LABOUR RELATIONS N6

6 JUNE 2016

This marking guideline consists of 14 pages.

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SECTION A

QUESTION 1

1.1 A
1.2 C
1.3 C
1.4 A
1.5 C

(5 × 2) **[10]**

QUESTION 2

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

(10 × 1) **[10]**

QUESTION 3

3.1 False
3.2 True
3.3 True
3.4 True
3.5 True
3.6 False
3.7 False
3.8 False
3.9 True
3.10 False
3.11 False
3.12 True

(12 × 1) **[12]**

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QUESTION 4

4.1 Supervisor

4.2 2 working days

4.3 Employee visits the supervisor with a representative

4.4 Head of department

4.5 Three working days

4.6 Employee lodges a formal complaint to a higher level of authority (production manager/general manager)

4.7 Internal route – call trade union

4.8 External route – take the matter to the CCMA

(8 × 1) **[8]**

TOTAL SECTION A: 40

SECTION B

QUESTION 5

5.1 5.1.1
- The State
- The employer (employer's organisation)
- The employee (trade unions)

(3 × 1) (3)

5.1.2
- Interaction between two or more persons or groups
- Dynamic in nature (changes constantly)
- Has a competitive and negative element
- Reflects negative emotional characteristics
- Comprises verbal or non-verbal or both interactions
- A strong disagreement or clash between people or groups regarding ideas, interests or feelings
- It occurs because of a difference in opinions, personalities and/or perspectives
- Latent conflict is when there is a conflict of goals and interests, but nothing is done about this
- Manifest conflict is when people do things to try and beat each other
- It is a struggle between at least two interdependent parties who perceive incompatible goals, scarce resources, and interference from the other party in achieving their goals

(Any 4 × 2) (8)

5.1.3
- There is conflict about wages between the employer and the employees (internal input).
- The employees can approach their trade union to negotiate for higher wages (internal output).
- The process through which negotiations can take place is collective bargaining (conversion).
- If successful, a substantive agreement (output) will be signed.
- If unsuccessful, the parties can go the route of a strike (conversion process).
- This may eventually result in a substantive agreement (output).
- It can, however, also result in the dismissal of employees (output) where they participated in an unprotected strike.
- Where negotiations fail the parties can take the matter to the CCMA (structure, conversion).
- With regard to the union competition, the employer can decide to recognise only one trade union (recognition agreement).

(Any 6 × 2) (12)

NOTE: Please refer to the components of input, conversion and output. This is a high-order interpretation type of question and the marker should be able to interpret the answers of students in different ways. The above only serves as a guideline. Clear reference needs to be made to input, output and conversion.

5.2 5.2.1
- Wages
- Working conditions
- Various fringe benefits
- Working hours per week
- Payment for overtime
- Work done on Sunday (Any 4 × 1) (4)

5.2.2
- Retrenchment
- Disciplinary
- Grievance
- Dispute resolution
- Appeal (Any 4 × 1) (4)

5.3 5.3.1
- Briefing groups
- Shop steward committees
- Workplace forums
- Organisational structure
- Health and safety committees (Any 4 × 1) (4)

5.3.2
- Grievance procedure
- Disciplinary code/procedure
- Retrenchment procedure
- Dispute-resolution procedure
- Appeal procedure (Any 3 × 1) (3)

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5.4 5.4.1 Redundancy

5.4.2 Lay-off

(2 × 1) (2)
[40]

QUESTION 6

6.1 YES.✓✓ They stayed away from work without a valid reason.✓✓ (2 × 2) (4)

6.2 A recognition agreement is an agreement between an employer and a trade union whereby the employer recognises a trade union as representative of the employees.✓✓ (2)

6.3 YES. ✓✓ It provides for freedom of association which means that every employee has the right to decide whether he/she wants to join a trade union and therefore also has the right of dissociation should they not want to be part of a strike.✓✓

OR

NO.✓✓ Although it is supposed to protect the employee as the employee has the right not to be part of a strike, it does not as intimidation and violence take place.✓✓ (Any 2 × 2) (4)

NOTE: OPEN MEMO: Please take into account what students wrote.

6.4
- Employees may not be dismissed for going on strike. (PLEASE NOTE: Employee can be dismissed for misconduct during a strike, for example violence).
- Employers may not get a court interdict to stop the strike.
- Employees do not commit a breach of contract.
- Employers may not institute civil cases against employees.
- Employer does not have to pay employees on strike.
- Employer may not refuse housing or food that is part of the employee's wages. (Any 4 × 2) (8)

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6.5
- Company or business name
- Employee name and surname
- Name of the chairperson
- Alternate charges
- Must state the transgression/offence
- Can also state the desired outcome, for example, dismissal
- Must state the date
- Time of the hearing
- Place of the hearing
- Must inform the employees that they have the right to bring witnesses with.
- Must inform the employees that they have the right to bring an interpreter with
- Must inform the employees that they have the right to a representative, which can be a fellow-employee or a trade union member
- Must state the language to be used
- Must make provision for the signature and date of management as well as acceptance of the employee
- The right to appeal
- List of employee's rights (Any 7 × 2) (14)

6.6 6.6.1
- Loss of income/profits
- Possible damages to property
- Lose market position
- Loss of continuous operation (Any 1 × 1) (1)

6.6.2
- Loss of credibility
- Loss of membership
- Costly to organise a strike
- Financial losses
- Public image suffers
- Loss of goodwill in the organisation
- Loss of goodwill of employees (Any 2 × 1) (2)

6.6.3
- Loss of wages
- Loss of lives
- Possible dismissals/loss of job
- Low morale
- Low productivity
- Resistance to change
- Loss of goodwill from the employer
- Loss of union membership for not taking part in strike

(Any 1 × 1) (1)

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6.7
- A lockout is the employer's equivalent of a strike
- It is the temporary closure of a plant
- For the duration of a negotiation
- The exclusion by the employer of employees from the employer's workplace
- When the employer prevents employees from entering the workplace in an attempt to force them to accept the demands of the employer or as counter to a protected strike (Any 2 × 2) (4)

[40]

QUESTION 7

7.1
- Centralised level
- Bargaining took place for the whole textile industry (2 × 2) (4)

7.2
- The economy (inflation, interest rates, economic growth)
- Political factors/influences
- Social factors/influences
- Technological changes/influences
- Public policy
- Demographic influences (Any 4 × 1) (4)

NOTE: Please have a look at what the students wrote, for example they might also state macro-economic indicators (inflation) and micro-economic indicators (finance of parties). Students can also give examples of social and political influences.

7.3
- Is a verbal communication
- Between two or more parties
- Is voluntary
- Refers to the internal conciliation of disputes without the intervention of a third party
- Parties liaise with each other to reach an agreement
- Seeking to reach an agreement
- Over a problem/conflict
- With a willingness to adjust their views
- Is a process of give and take
- Interactive communication takes place
- Used in order to reach a compromise
- Negotiation is an interactive process aimed at a fair, reasonable and mutually acceptable positioning of one party in the interaction with another party (Any 4 × 2) (8)

NOTE: OPEN MEMO – there can be other definitions as well as long as the meaning is correct.

7.4
- Alienation
- Production attacks
- Distortion of information (rumours)
- Deterioration of working relations (4 × 1) (4)

NOTE: Student could also give examples, for example instead of alienation (absenteeism or high staff turnover); production attacks (strikes, picketing); distortion of information (rumours); deterioration of working relations (increase in disciplinary hearings and grievances).

7.5 7.5.1 Collaborating

7.5.2 Accommodating

7.5.3 Compromising

(3 × 2) (6)

7.6
- The main function of the arbitrator is to decide on a solution to the dispute between parties.
- This is a solution to which parties are required to abide.
- He/she is a neutral party and settles arguments in an objective manner.
- His/her decision is final and binds the parties.
- He/she exercises strict control during the arbitration process.
- The content of the solution determined for the parties is worded simply so that there is no misinterpretation or misunderstanding.
- The arbitrator does not try to encourage or force the parties to come to their own agreement.
- The role of the arbitrator is to listen to both parties.
- Once the arbitrator understands both sides of the story and carries out fact finding, a decision is made.
- The arbitrator then issues an arbitration order that sets out the decision in writing. (Any 3 × 2) (6)

7.7 7.7.1 Conciliation/Negotiation

7.7.2 CCMA

7.7.3 Bargaining Council or just Councils (Please note that QUESTION 7.7.2 and 7.7.3 can also be the other way round.)

7.7.4 Arbitration

7.7.5 Adjudication (or Labour Court/Labour Appeal Court)

7.7.6 Strikes/Industrial Actions

(6 × 1) (6)

7.8 NO. ✓ They can also make use of private agreements/methods.✓ (2 × 1) (2)

[40]

QUESTION 8

8.1 8.1.1

- A systematic face-to-face communication
- Through the line of command
- Groups of employees are informed on aspects in work environment that affect them
- Is vital to the effective operation of the organisation
- Also an ideal platform for employees to understand more about their own areas of work
- Is a structure that can ensure effective workplace communication (Any 3 × 2) (6)

8.1.2

- Must take place face-to-face ✓– Allows for immediate feedback, questions can be asked✓
- Should be small groups✓ – Better understanding and acceptance, better group interaction✓
- Should be held on a regular basis or as needed✓ – Held during working hours and should not be too long✓
- Information must be relevant to those that receive it✓ – This is the outstanding benefit of briefing groups – only matters that affect that specific group should be addressed✓
- Line management must be responsible for communicating it accurately✓ – Strengthens the position of line management✓
- Line managers must monitor the system to check that implementation is adequate – There should be implementation to make this successful

NOTE: ONE mark each for main point and ONE mark for discussion

ALSO MARK AS CORRECT

- Everybody involved must be committed to the process.✓✓
- Information must be applicable to the group.✓✓
- It involves face-to-face verbal communication but should be supported by written documentation.✓✓
- Should be limited to 25 people to ensure interpersonal communication.✓✓
- Must be based on the organogram and the line manager should lead the discussion.✓✓
- Should be held on each level of the organisation.
- Feedback to the questions must be given at the next meeting.
- Aimed at reducing the misunderstanding between management and employees.
- Aimed at maintaining an objective perspective on information.
- Aimed at increasing cooperation and employees' commitment.

(Any 5 × 2) (10)

8.2 8.2.1

- A party declares a dispute of right if he or she is entitled to something by law, contract or an agreement.
- A dispute of right arises when an actual entitlement or obligation described in contracts of employment, collective agreements or by any other legislation or regulations is violated.
- A dispute of right arises when you deserve something because a source of the law says you must have it. (Any 1 × 2) (2)

8.2.2

- Where an employer does not adhere to the contract of employment (any applicable example with regard to this)
- Where an employer does not adhere to a signed collective agreement, for example a negotiated increase in wages
- The non-implementation of an arbitration award
- Interference with legal rights, for example freedom of association
- One party did not implement the terms of a legally enforceable agreement
- Unfair labour practice by employers such as removal of benefits
- Unfair discrimination (Any 2 × 1) (2)

8.2.3

- Adjudication (taking the matter to court)
- Arbitration (2 × 1) (2)

8.3

TYPE OF STRIKE	EXPLANATION
• Economic strike✓ • Recognition strike✓ • Sympathy or secondary strike✓ • Solidarity strike✓ • Rotating strike • Sit-in strike • Expected strike • Wild cat strike • Strategic strike • Demonstration strike • Procedural strike • Recognition strike • General and political strike • Intermittent strike	• This is based on the demands for improved wages, hours of work and working conditions.✓ • It is used to force the employer to recognise and deal with the union.✓ • Other unions strike in support of the initiating union, customers, suppliers or close associates.✓ • Workers stop work out of sympathy for one or more colleagues who were treated unfairly.✓ • Strike occurs in a certain section at a given time and then moves on to another section. • This occurs where a group of workers sit in at their work location refusing to work and demanding to discuss their grievances. • It is an expected action and not a surprise. It may be legal or illegal. • This type of strike is generally sudden, brief and unauthorised by the union and triggered by an incident on the shop floor. • Only a few employees in key positions or strategic sections strike. • Takes place before negotiations to further negotiations. • Takes place after procedures/ negotiations have failed. • Strike to force an employer to recognise the trade union. • Strike starts at plant level in one workplace and spreads till most of the workers in the country strike. • Employees stop for short periods of time. A stop-start approach.

(Any 4 x 2) (8)

8.4 Establishment of workplace rules✓

- Employer and employees should determine the rules, build trust; employees will then accept rules.✓
- Through collective bargaining all employees gain a voice to establish these workplace rules.
- There are specific and broad categories of rules that must be followed and agreed upon.
- The employer empowers the employee to take part in decision making.

Determining form of compensation✓

- Negotiations take place to determine remuneration, and employees can express their feelings as well.✓
- Collective bargaining can set out the type and number of benefits a worker will receive.
- Employees are compensated depending on the type of work they perform.
- Employees get the opportunity to express their feelings about terms of payment and distribution of benefits.

Establishment of standard compensation✓

- Will result in uniformity of benefits.✓
- Trade unions negotiate compensation packages with employers depending on the preferences of the employees.
- Groups of employees should earn their salaries at the same rate.
- It will establish a standard wage rate and benefit package for employers in the same product market.

Determining priorities on each side✓

- Important issues will receive high priority on bargaining list; differences can be solved; parties get opportunity to list their own priorities.✓
- Trade unions and management explain their priorities to each other, that is the things that matter the most to them.
- It is important that the interests of both employer and the employee are taken into consideration and protected.
- Before the negotiation process starts, both parties should ensure that they have established priorities.

Restructuring the arrangement of bargaining✓

- Contracts and agreements need to be revised regularly as the external environment changes and new needs appear.✓
- Collective bargaining is especially viable for future development of harmonious relationships and democratic working conditions in any workplace.
- The arrangement of bargaining is restructured when it is necessary to make changes to where and how bargaining is done.
- Parties should re-shape bargaining arrangements from time to time in response to experience and emerging new problems. (Any 5 × 2) (10)

[40]

NOTE: ONE mark for the main point and ONE mark for discussion

QUESTION 9

9.1 9.1.1

- To correct unacceptable behaviour
- To adjust behaviour
- To adjust training
- To indicate clearly what acceptable behaviour means
- To help the employee to understand what acceptable and desirable behaviour means
- To train and show the individual the correct and acceptable type of behaviour
- To prevent any type of loss, e.g. production loss, staff loss, etc.
- To uniformly apply disciplinary action or sanction
- To make employees aware of rules and the consequences of transgressing these rules
- To control the standard of employee behaviour within a company
- To adopt a progressive approach to workplace discipline
- To create certainty and consistency in the application of discipline

(Any 5 × 2) (10)

9.1.2

- To establish a uniform framework for disciplinary action
- To address unacceptable behavior
- To document unacceptable behavior
- To ensure consistency
- To have evidence if necessary in the future
- To ensure that everyone in the workplace can learn and know the rules
- To set workplace standards for behavior
- To ensure that rules are followed, making the workplace a more efficient space
- To ensure that employees know of the sanctions when they break the rules
- To ensure that employees know what type of sanctions are linked to specific types of misconduct
- To ensure that employers and employees are treated fairly
- To reduce the risk of miscommunication in the workplace

(Any 4 × 1) (4)

9.1.3

(a) Reprimand or can also be a verbal warning

(b) Written warning/may also be a final written warning

(c) Dismissal

(d) Demotion

(4 × 2) (8)

9.2
- To ensure that complaints are effectively dealt with
- To prevent a grievance from developing into a more serious issues, for example a strike or dismissal
- To develop a culture wherein problems between management and employees can be resolved internally
- To create opportunity for upward communication by employees
- An effective method for individual employees to voice a grievance
- To create an opportunity for downward communication by employers
- To give proper attention to employee unhappiness
- To understand employee's problems and interpretation of situations
- To emphasise the management's concern for the well-being of employees
- To make the employer aware of the grievance in the organisation
- To minimise accusations of unfair labour practices
- To facilitate two-way communication between employer and employee
- To act as feedback tool
- To deal with matters that are frequently not on collective bargaining agendas
- To prevent occurrence of disputes
- To enable the employee to have a grievance resolved as quickly and as close to the point of origin as possible
- To provide access to senior management for the resolution of any grievance
- To resolve a workplace problem that an employee has
- To make sure that there is peace in the employment relationship where labour disputes are resolved in-house (Any 5 × 2) (10)

9.3
- Is a strategy to facilitate bargaining rather than a method of bargaining
- Sometimes happens before real bargaining
- Constitutes efforts by one party to change the direction or course of negotiation by changing the relationship between the parties
- Tries to replace hostility with friendliness
- Aim is to create a climate of integrative bargaining
- Undertaken by the most influential party
- Mutual benefits for the parties
- A win-win situation
- To shape and reshape attitudes like trust, friendliness and hostility between employers and employees
- Helps to maintain harmonious labour relations
- A good-faith bargaining environment is created where trust and cooperation among bargaining parties exist
- Useful when there is employer-employee clash of interests and ideas
- Tries to change attitudes of employers and employees
- Tries to change the way they bargain and negotiate
- Tries to have a better outcome (Any 4 × 2) (8)

[40]

TOTAL SECTION B: 160
GRAND TOTAL: 200

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