higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

GENERAL STUDIES

N950**(E)**(J2)H
JUNE EXAMINATION

NATIONAL CERTIFICATE

LEGAL PRACTICE N5

(13030115)

2 June 2016 (X-Paper)
09:00–12:00

This question paper consists of 10 pages and 1 addendum.

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DEPARTMENT OF HIGHER EDUCATION AND TRAINING
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE
LEGAL PRACTICE 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. SECTION A is COMPULSORY.
2. Answer any THREE questions in SECTION B.
3. Read ALL the questions carefully.
4. Number the answers according to the numbering system used in this question paper.
5. Neatness, style and a systematic exposition of facts are required. Where possible, answer questions in point form, but always in full sentences.
6. Write neatly and legibly.

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SECTION A (COMPULSORY)

QUESTION 1

1.1 Indicate whether the following statements are TRUE or FALSE. Choose the answer and write only 'true' or 'false' next to the question number (1.1.1–1.1.10) in the ANSWER BOOK.

1.1.1 The Law Society examines all laws as accepted by parliament.

1.1.2 Where someone has been accused of treason, the court of first instance will be the Magistrate's Court.

1.1.3 In the small claims court, legal representation by an attorney or an advocate is not allowed.

1.1.4 An attorney may withdraw money from the trust account to buy office stationery.

1.1.5 A mentally disturbed person may sign as a witness to a will.

1.1.6 Closed files must be kept for at least three years.

1.1.7 An insolvent person can be rehabilitated after three months.

1.1.8 Dies induciae means summary judgement.

1.1.9 Any person older than 21 years may apply for a liquor licence.

1.1.10 One of the requirements that must be satisfied in order for a custom to be recognised as a rule of law is that the custom must not contradict any existing rule of law.

(10 x 1) (10)

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1.2 Give ONE word/term for each of the following descriptions by choosing a word/term from the list below. Write only the word/term next to the question number (1.2.1–1.2.10) in the ANSWER BOOK.

civil case; commissioner; trust account; subpoena; business account; without prejudice; centralised system; summons; guardian; obligatory sequestration; your honour; voluntary sequestration; outgoing mail register; remittance register; sir; high court documents; your worship; liquor board; income and expenditure account

1.2.1 The first step taken in a legal dispute

1.2.2 The account in a deceased estate that shows income collected which has accrued subsequent to the death of the deceased to the date of the account

1.2.3 All monies received must be written in this document

1.2.4 A filing system where each attorney has his/her own files in his/her office

1.2.5 When a letter may not be used as evidence in a court case, it is marked like this

1.2.6 The correct manner in which the magistrate in a court should be addressed

1.2.7 The type of sequestration where creditors apply for it

1.2.8 The presiding officer in a small claims court

1.2.9 Nominated person in a will that is responsible for minors

1.2.10 A liquor licence is issued by this body

(10 x 2) (20)

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1.3 Choose an item from COLUMN B that matches a description in COLUMN A. Write only the letter (A–M) next to the question number (1.3.1–1.3.10) in the ANSWER BOOK.

COLUMN A		COLUMN B	
1.3.1	A magistrate refuses a verdict for either of the parties	A	intestate
1.3.2	The document that can be obtained against a debtor when a summons has been ignored	B	return of nulla bona
1.3.3	Evidence is given orally in an open court	C	trust account
1.3.4	Summons served in an extraordinary manner	D	attorney
1.3.5	An address used to serve a summons	E	illegitimate children
1.3.6	To die without a will	F	domicilium citandi
1.3.7	The attorney keeps the client's money in this account	G	viva voce
1.3.8	When there are no movable assets to seize	H	administration rule
1.3.9	May inherit intestate from their mother, but not from their father	I	judgement by default
1.3.10	An official who belongs to the side bar	J	absolution from the instance
		K	edictal citation
		L	pleadings
		M	hortor's diary

(10 × 1) (10)

1.4 Indicate in each of the following cases in which court the following hearings will take place. Write only the answer next to the question number (1.4.1–1.4.5) in the ANSWER BOOK.

1.4.1 While driving to work, Jenny jumps a traffic light and receives a fine. She ignores all demands for payment.

1.4.2 Thandi owes a local stokvel an amount of R6 900. The chairperson of the stokvel wants to take Thandi to court to recover the debt.

1.4.3 Jerry wishes to contest the will of his late wife on the basis that it is invalid and that she had an updated version.

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1.4.4 The employer did not want to promote Tumi because of her gender.

1.4.5 A bus driver from Paarl was found guilty of murder after the death of eight learners. He wants to appeal against the sentence.

(5 x 2) (10)
[50]

TOTAL SECTION A: 50

SECTION B

Answer any THREE questions in this section.

QUESTION 2

'Peace is not merely the absence of war but the presence of justice, of law, of order – in short, of government.'

[Source: Albert Einstein, *On Peace*]

2.1 Define the term *law*. (2 x 2) (4)

2.2 List ALL the SEVEN sources of the South African law. (7 x 1) (7)

2.3 Distinguish between the following lawsuits:

2.3.1 Civil case

2.3.2 Criminal case

(2 x 2) (4)

2.4 Read the case study below and answer the questions.

Joe Rafela, a client of attorneys L & M Inc. was charged a consultation fee of R950 an hour by his attorney. During a conversation with his neighbour, Stella, she mentioned that she had had a case similar to Joe's and had been charged a consultation fee of only R300 an hour by the same attorney. Stella even showed him all the proof she had.

2.4.1 Joe wants to lay a complaint against his attorney for overcharging him.

Which institution can he approach in order to lay the complaint? (1)

2.4.2 Advise Joe on the information that must be in his letter to the institution named in QUESTION 2.4.1. (4 x 2) (8)

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2.5 Karen van Wyk is a new client of your firm of attorneys. You have been instructed to open a new file for her.

2.5.1 What information must you put on the front cover of her file? (4 x 2) (8)

2.5.2 Explain the FOUR filing systems that you can use to file Karen's information. (4 x 2) (8)

2.5.3 Name any TWO confidential documents that are given to attorneys for safe-keeping and which must always be locked away when not in use. (2 x 1) (2)

2.6 You are a receptionist at a law firm. When telephoning the firm, a caller will hear your voice first.

State FOUR things that you must do when responding to the caller over the phone. (4 x 2) (8)

[50]

QUESTION 3

3.1 Use the following information to complete the message form on the ADDENDUM (attached). Write your EXAMINATION NUMBER in the space provided and place the ADDENDUM in the ANSWER BOOK.

You are Thuli Ngoma, secretary for attorneys Lindel & Lindel. Mr Chris Motsepe's secretary, Johanna Daniels, phones to speak to Mr Lindel to discuss the Firm's new recruitment strategy and the fact that they need to reschedule their appointment for 10 May as Mr Motsepe will be away on business. Mr Lindel is not available to take the call. It is your responsibility to give this message to the applicable person. Mr Motsepe's contact details are as follows: Cmotsepe@mfoundation.co.za; 011 682 1180.

(10 x 1) (10)

3.2 Name the presiding officers of the following courts:

3.2.1 Supreme court of appeal

3.2.2 District court

3.2.3 High court

3.2.4 Constitutional court

(4 x 1) (4)

3.3

'Crime is a prominent issue in South Africa with cases ranging, amongst others, from murders and assaults to the raping of adults, children, the elderly and infants. The person who appears on behalf of the state is the public prosecutor.'

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3.3.1 Name the document submitted in criminal proceedings. (1)

3.3.2 State the discretion that a public prosecutor has regarding the decisions that he/she can make affecting the criminal justice process. (5 x 2) (10)

3.4 Which document, sworn under oath, indicates a list of disclosed documents? (1)

3.5 Which options are available to the defendant when a summons has been served on him? (5 x 2) (10)

3.6 State the conditions under which the defendant may object to a summons or pleading. (6 x 2) (12)

3.7 Name the official responsible for the following:

3.7.1 The delivery of magistrate's court documents

3.7.2 Administration in the high court

(2 x 1) (2)
[50]

QUESTION 4

4.1 Secretaries are not required to compose written pleas, as this is the responsibility of the attorney, but they are expected to type any court document as per legislative requirements.

State FIVE requirements that must be adhered to when typing court documents. (5 x 2) (10)

4.2 Read the statement below and then answer the questions.

> According to the National Credit Regulator, South Africans are the biggest borrowers in the world. A recent World Bank survey revealed that 10,26 million people have accounts that are three months in arrears. This often results in people being declared insolvent.

4.2.1 Discuss the main aim of an order of sequestration. (5 x 1) (5)

4.2.2 Certain property is excluded from the estate of an insolvent person and remains in his or her possession.

List those items. (4 x 1) (4)

4.2.3 Name the court order issued to a debtor for him/her to pay the debt in instalments. (1)

4.2.4 Name TWO types of sequestration orders that can be issued. (2 x 1) (2)

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4.3 A plaintiff may apply for a summary judgement.

State the cases in which this judgement can be implemented. (5 x 2) (10)

4.4 List the steps to be followed in a civil case, in sequential order. (8 x 1) (8)

4.5 Identify the legal principle in each of the following cases. Write only the term next to the question number (4.5.1–4.5.5) in the ANSWER BOOK.

4.5.1 The type of summons used to sue for the payment of rent in arrears

4.5.2 A written document that sets out how one's assets are to be distributed after one's death

4.5.3 When a magistrate takes a decision on a matter

4.5.4 The person who lays a charge in a civil case

4.5.5 The type of documents to be compiled and attested by a notary

(5 x 2) (10)
[50]

QUESTION 5

5.1 Name the person responsible for collecting all the assets in a deceased estate, paying all liabilities and dividing the remaining assets according to the testators wishes. (1)

5.2 Name THREE types of wills. (3 x 1) (3)

5.3 'One of the requirements for a valid will is that it must be in writing and signed by the testator.'

State in detail the options available to testators who are illiterate or handicapped and who are unable to sign their own wills. (5 x 2) (10)

5.4 Discuss the following terms in detail with the aid of examples:

5.4.1 Usufruct (5 x 2) (10)

5.4.2 Fideicommissum (4 x 2) (8)

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5.5 Read the scenario below and answer the questions.

Carl (the deceased) was married in community of property to Candice. He left behind an estate of R1,2 million. Carl is survived by his wife, Candice, and his parents. Carl and Candice had no children. He died intestate.

5.5.1 Who will inherit Carl's estate? (2)

5.5.2 Suppose Carl's parents had pre-deceased him, and he and Candice had two children. How would his estate be distributed? (3 x 2) (6)

5.5.3 Explain the term *guardian.* (3 x 2) (6)

5.5.4 Where intestate hereditary succession is concerned, the children will inherit in equal parts.

State the position of illegitimate children. (2 x 2) (4)

[50]

TOTAL SECTION B: 150
GRAND TOTAL: 200

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ADDENDUM **EXAMINATION NUMBER:** | | | | | | | | | | | | | |

QUESTION 3.1

PLACE THE ADDENDUM IN THE ANSWER BOOK

Telephone Message	
To:	
From:	
Company:	
Telephone Number:	Email Address:
Date:	Time:
Message:	
Call taken by:	

(10 x 1) (10)

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