higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LEGAL PRACTICE N5

6 JUNE 2018

This marking guideline consists of 7 pages.

Copyright reserved

SECTION A

QUESTION 1

1.1	1.1.1	True	
	1.1.2	True	
	1.1.3	False	
	1.1.4	True	
	1.1.5	True	
	1.1.6	True	
	1.1.7	False	
	1.1.8	True	
	1.1.9	True	
	1.1.10	False	
			(10 × 2) (20)
1.2	1.2.1	jurisdiction	
	1.2.2	roll	
	1.2.3	treason	
	1.2.4	CCMA	
	1.2.5	interdict	
			(5 × 2) (10)
1.3	1.3.1	J	
	1.3.2	I	
	1.3.3	H	
	1.3.4	C	
	1.3.5	A	
	1.3.6	G	
	1.3.7	F	
	1.3.8	E	
	1.3.9	D	
	1.3.10	B	
			(10 × 2) (20)
			[50]

TOTAL SECTION A: 50

SECTION B

QUESTION 2

2.1
- Arguing a client case in court
- Arguing a client case before council
- Draw up contracts and agreements for clients
- Advising clients on domestic and financial matters
- Establishment of companies
- Debt collection – recovery of debts from debtors
- Conveyance – transfer of immovable property and bonds
- Preparing court documents
- Consulting with advocates
- Draw up wills and administration of estates (Any 6 × 2) (12)

2.2
- Horizontal method
- Vertical method
- Tubular method
- Various filing system
- Alphabetical filing system
- Numerical filing system
- Centralised filing system
- Decentralised filing system
- Keeping a record of files
- Alphabetical centralized cards
- Decentralised registers (Any 5 × 2) (10)

2.3

INTERNATIONAL LAW	NATIONAL LAW
• Governs the relationship between different countries • Terms of international law are determined by international organisations	• Governs the relationship within a specific country • Terms of national law are determined by the Constitution

(4 × 2) (8)
[30]

QUESTION 3

3.1
- Dissolving marriage
- Validity of wills
- Mental capacity
- Perpetual silence
- Rape
- Murder
- Treason (Any 6 × 2) (12)

3.2
- Write all the information on the cover page, e.g. name of the client,
- address
- and case reference number.
- Complete the register to keep record of all files.
- Inform the accountant of the new file.
- Attach an account statement inside the file.
- Attach a progress report to the file.
- Place all correspondence documents inside the file.
- Once the file is full, open a new one with a new reference number.

(Any 7 × 2) (14)

3.3 affidavit (2)

3.4 will/testamentary (2)
[30]

QUESTION 4

4.1 4.1.1 The applicant:
- may not have been sentenced to imprisonment without the option of a fine in the last 10 years.
- must be free from liquor crime charges in the previous 10 years.
- must be a South African citizen.
- must have been rehabilitated after insolvency.
- must be 21 years or older.
- may not have stayed outside South Africa for more than two years in the last 5 years from the day of application.
- must be of good conduct. (Any 6 × 2) (12)

4.1.2
- The applicant must have the right to occupy the premises.
- The premises must be suitable for liquor business.
- The premises must be free from places of worship and schools.
- The premises must be secure.
- If the premises are going to be reconstructed, a future plan must be submitted.
- The premises must be completed within a specific time. (Any 5 × 2) (10)

Copyright reserved

4.2
- Legislation (Statute law)
- Custom
- Judicial precedent
- Common law (4 × 2) (8)

[30]

QUESTION 5

5.1
- Before filing a formal complaint, make an appointment with the attorney in question and discuss the matter.
- If no decision is made, then contact the nearest provincial LSSA.
- Direct a letter to the LSSA in which you identify yourself, the concerned attorney, the complaint and the reasons for your unhappiness.
- The client can attend the session or choose to remain anonymous.

(4 × 2) (8)

5.2
- Summons does not indicate a clear cause of action.
- Plea does not indicate a definite defence.
- Phrasing of the document is vague and ambiguous.
- Summons is not compiled according to the rules of the court.
- Summons was not served in the correct way.
- Copy differs from the original.
- Objection done by means of a 'Notice of Exception'. (Any 6 × 2) (12)

5.3

COLLUSIVE	NOTARIAL
• Compiled by parties✓ • No witnesses are needed for signing✓ except in cases where it is required by law as guarantee of validity✓✓ • It can either be oral or written✓ • Sometimes it is only legal if written, e.g. a hire purchase contract✓	• Must be compiled by a notary✓ • Witnesses must be present when signing the contract✓ • Must be signed by the parties in the presence of a notary✓ • May only be written✓

(10)

[30]

QUESTION 6

6.1
- Name of person who made the payment
- Name of client for whose benefit the payment was made
- Type of payment, e.g. collection of debts
- Should money be paid into trust account or business account
- Date on which payment is received
- Amount in words and in numbers
- Cash or cheque payment
- Signature of person who issues the receipt
- Name of attorney's firm (Any 7 × 2) (14)

6.2
- A testament must be written.
- A testament must be signed by the testator.
- The testator must be 16 years or older, be of sound mind at the time of signing the will and not act under duress.
- When a testament consists of more than one page, the testator must sign on every page.
- The testator must sign the testament in the presence of two competent witnesses.
- The witnesses must sign every page
- in the presence of the testator and each other.
- A witness to a will must be at least 14 years of age
- and must be capable of testifying in a court of law.
- The testament must be dated. (Any 6 × 2) (12)

6.3 It goes to the state/government. (2)

6.4 Power of Attorney (2)
[30]

QUESTION 7

7.1
- Send a letter of demand to the defendant.
- Keep proof of the letter of demand sent to the defendant.
- If the defendant does not respond within 14 days, approach the small claims court.
- Show the letter of demand and proof of sending the letter to the clerk of the court.
- Summons will then be issued and served to the defendant.
- The day of the court case will be determined in the summons.
- Report to the court on the day and time determined in the summons.
- Have all documentation with you.
- During the hearing, the plaintiff will state his case.
- Thereafter, the defendant will state his case too.
- Eyewitnesses may be called.
- The commissioner will give a ruling.
- The party who loses will pay the cost. (Any 10 × 2) (20)

7.2
- Trust account
- Keeps all monies which belong to clients in this account
- for services still to be rendered
- e.g. the purchase price of a house
- may not withdraw without client's permission

- Business account
- The firm's own money
- Used to defray running costs
- As soon as service has been rendered, money is paid into this account
- for which they have a cheque and receipt book (Any 5 × 2) (10)

[30]

TOTAL SECTION B: 150
GRAND TOTAL: 200

Copyright reserved