higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LEGAL PRACTICE N5

29 MAY 2019

This marking guideline consists of 7 pages.

Copyright reserved

SECTION A

QUESTION 1

1.1	1.1.1	Sheriff
	1.1.2	My lord
	1.1.3	The Constitution
	1.1.4	without prejudice
	1.1.5	illiquid
	1.1.6	public prosecutor
	1.1.7	The clerk
	1.1.8	Public defender
	1.1.9	Usufruct
	1.1.10	Modus
	1.1.11	Roll
	1.1.12	Testator
	1.1.13	Executor dative
	1.1.14	obligatory
	1.1.15	Subpoena

(15 × 2) (30)

1.2	1.2.1	True
	1.2.2	True
	1.2.3	False
	1.2.4	False
	1.2.5	False
	1.2.6	False
	1.2.7	True
	1.2.8	False
	1.2.9	True
	1.2.10	True

(10 × 2) (20)
[50]

TOTAL SECTION A: 50

SECTION B

QUESTION 2

2.1
- Litigation✓
  Handling of court cases✓✓
- Debt collection✓
  Recovery of debts from debtors✓✓
- Conveyancing✓
  Transfer of immovable property and bonds✓✓
- Commercial✓
  Business matters✓✓
- Wills✓
  Drawing up wills and administration of estates✓✓ (5 × 3) (15)

2.2 2.2.1 Commissioner (2)

2.2.2
- Civil claims not exceeding a specific amount
- Claims for damages
- Claims for delivery of goods
- Claims concerning hire-purchase contracts (4 × 2) (8)

2.2.3
- The court procedure to sue a person is simple.
- The cost is minimal. (2 × 2) (4)

2.3 treason (1)

[30]

QUESTION 3

3.1 3.1.1

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

3.1.2 Common Law

- Roman Law✓✓
- Roman-Dutch Law✓✓
- English Law✓✓

Legislation (Statute Law)

- Most important source of our law today✓✓
- Legislation passed by South African parliament✓✓
- Claims for delivery and transfer of goods✓✓

Custom

- Originates in habits of a community.✓✓
- Does not consist of written rules.✓✓
- Habit must be reasonable.✓✓
- Habit must have existed for a long time.✓✓
- Habit must be acceptable to the community.✓✓
- Habit must not differ from the current law. ✓✓

Judicial precedent

- Function of the judge is to apply and not to make the rule.✓✓
- Courts are institutions through which the law is applied and enforced.✓✓
- The new law is known as presidential law.✓✓ (Any 4 × 3) (12)

3.2

- Whether the money is from a trust or business account
- Name of a client to whom it must be charged
- Reason for the cheque, for example transfer duty
- To whom the cheque must be made out
- The amount
- Date (Any 5 × 2) (10)

[30]

QUESTION 4

4.1 Trust account✓✓
- Keeps all monies which belong to clients in this account✓✓
- For services he/she still has to render✓✓
- For example, purchase price of a house ✓✓
- May not withdraw funds 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 he/she has a cheque and receipt book ✓✓

(Any 10 × 2) (20)

4.2 Power of attorney
- It is the right which one person gives to another in order to do something for him✓✓

Special power of attorney✓✓
- Client gives his/her attorney the right to complete ONE case for him✓✓
- For example, transfer of purchase of property✓✓

General power of attorney✓✓
- In this case, the powers/rights are more extensive and more than one task to execute✓✓

(5 × 2) (10)
[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 the letter, identify yourself, the concerned attorney, the complaint and reasons for your unhappiness.
- The client may attend the session or choose to remain anonymous. (4 × 2) (8)

5.2
- 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 7 × 2) (14)

5.3
- An attorney
- The police
- The postmaster
- Principal of the college (4 × 2) (8)

[30]

QUESTION 6

6.1
- The applicant must have the right to occupy the premises.
- Premises must be suitable for intended purpose.
- Premises must be suitable distance from a place of worship or school.
- Premises must be secure.
- If the premises are going to be reconstructed, future plan must be submitted.
- Premises must be completed within a specific time.
- Notice of intention to sell liquor must be posted on the premises for objections by the public. (Any 6 × 2) (12)

6.2 21 (2)

6.3 Yes (2)

6.4
- 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 regarding the new file.
- Attach an account statement inside the file.
- Attach 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. (7 × 2) (14)

[30]

Copyright reserved

QUESTION 7

7.1
- Answer immediately.
- Answer politely.
- Provide the name of the law firm.
- Write down the date of the call.
- Time of the call must be recorded.
- Name of the person/client must be recorded.
- Write down the name of the person to whom the call was intended
- The message must be written down clearly.
- Indicate the telephone number.
- The recorded information must be filed in the client's file. (Any 8 × 2) (16)

7.2 14 years (2)

7.3 16 years (2)

7.4 Dying without a will or a valid will (2)

7.5 False (2)

7.6
- It must be compiled by a notary.
- Witnesses must be present when signing the contract.
- It must be signed by the parties in the presence of a notary.
- It must be in writing. (Any 3 × 2) (6)

[30]

TOTAL SECTION B: 150
GRAND TOTAL: 200

Copyright reserved