higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LEGAL PRACTICE N5

15 NOVEMBER 2018

This marking guideline consists of 7 pages.

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SECTION A

QUESTION 1

1.1	1.1.1	True
	1.1.2	True
	1.1.3	True
	1.1.4	True
	1.1.5	True
	1.1.6	False
	1.1.7	False
	1.1.8	True
	1.1.9	True
	1.1.10	True
	1.1.11	False
	1.1.12	True
	1.1.13	False
	1.1.14	False
	1.1.15	False

(15 × 2) (30)

1.2	1.2.1	B
	1.2.2	E
	1.2.3	A
	1.2.4	D
	1.2.5	G
	1.2.6	J
	1.2.7	I
	1.2.8	F
	1.2.9	H
	1.2.10	C

(10 × 2) (20)
[50]

TOTAL SECTION A: 50

SECTION B

QUESTION 2

2.1 2.1.1 LLB (2 × 1) (2)

2.1.2
- Arguing a client's case in court
- Arguing a client's case before council
- Drawing up contracts and agreements for clients
- Advising clients on domestic and financial matters
- Establishing companies
- Debt collecting – recovery of debts from debtors
- Conveyancing – transfer of immovable property and bonds
- Preparing court documents
- Consulting with advocates
- Drawing up wills and administration of estates (5 × 2) (10)

2.2 2.2.1 Intestate

2.2.2 The estate goes to the state.
(2 × 2) (4)

2.5
- A testament should be in writing.
- 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 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. (7 × 2) (14)

[30]

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QUESTION 3

3.1
- Horizontal method
- Vertical method
- Tubular method
- Various filing systems
- Alphabetical filing system
- Numerical filing system
- Centralised filing system
- Decentralised filing system
- Keep a record of files
- Alphabetical centralised cards
- Decentralised registers

NB Award 2 marks for any other relevant answer. (6 × 2) (12)

3.2 The right of the court to decide on a matter and make a judgment. (2)

3.3
- Geographical area
- Type of offence
- Amount of money involved (3×2) (6)

3.4

CRIMINAL CASE	CIVIL CASE
It is an example of public law✓	It is an example of private law✓
Matter is between the state and accused✓	Plaintiff and defendant✓
Beyond a reasonable double✓	Balance of probabilities✓
State initiates proceedings✓	Plaintiff initiates proceedings✓
Remedy for punishment✓	Remedy for clarification✓

(5 × 2) (10)
[30]

QUESTION 4

4.1 1996 (2 × 1) (2)

4.2
- The custom must have existed for a long time.
- The community in which it applies must accept it.
- It must be reasonable.
- Its content must be certain and clear. (4 × 2) (8)

4.3 True (2 × 1) (2)

4.4 Affidavit (2 × 1) (2)

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4.5
- An attorney
- The police
- A postmaster
- Principal of a college (3 × 2) (6)

4.6 Power of attorney

- The right one person gives another person to do something for him or her✓✓

Special power of attorney✓✓
- Client gives his or her attorney the right to complete ONE case for him✓✓
- e.g. transfer or purchase of property✓✓

General power of attorney✓✓
- In this case the powers/rights are more extensive and more than one task must be executed.✓✓ (5 × 2) (10)

[30]

QUESTION 5

5.1
- Dissolving a marriage
- Validity of wills
- Mental capacity
- Perpetual silence
- Rape
- Murder
- Treason
- The testament must be dated. (6 × 2) (12)

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 not compiled according to the rules of the court.
- Summons not served correctly.
- Copy differs from the original. (5 × 2) (10)

5.3

COLLUSIVE	NOTARIAL
• Compiled by parties✓✓ • No witnesses needed for signing✓✓ except in cases where it is required by law as guarantee of validity.✓✓ • It can be either oral or written.✓✓ • Sometimes it is only legal if written, e.g. 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 in written form✓✓

(4 × 2) (8)
[30]

QUESTION 6

6.1
- Interviewing next of kin
- Reporting the estate
- Opening an estate file
- Obtaining valuations of estate assets and liabilities
- Custody of estate assets
- Opening an estate cheque account
- Placing notices in the *Government Gazette*
- Determining insolvency or not of the estate
- Handling maintenance claims
- Payment of interim advances
- Payment of estate liabilities
- Drafting liquidation and distribution account (Any 5 × 2) (10)

6.2
- Minors
- Demented person
- Wastrels
- Insolvent persons
- The Master
- The drafter of the will or a witness
- Person living outside South Africa
- Legal person, e.g. company (Any 5×2) (10)

6.3
- Handling admission examinations for attorneys
- Advising candidate attorneys
- Appraising and evaluating certain cost accounting
- Supporting attorneys
- Investigating complaints against attorneys
- Handling registration of clerkships
- Studying legislation

(Any other relevant answer) (Any 5 × 2) (10)
[30]

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QUESTION 7

7.1
- It must be in writing.
- Must be sent by registered mail.
- Proof of sending must be kept as documentary evidence.

Information which must be contained in a letter of demand
- Nature of claim
- Name of the plaintiff
- Name of the defendant
- Amount owing
- Interest payable
- Number of days in which the defendant must respond (Any 7 × 2) (14)

7.2
- 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 calling must be recorded
- Name of the person for whom the call was intended must be recorded
- The message must be written down clearly
- Indicate the telephone number of the caller
- The recorded information must be filed in the client's file (Any 8 × 2) (16)

[30]

TOTAL SECTION B: 150
GRAND TOTAL: 200

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