higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

N970**(E)**(N15)H

NATIONAL CERTIFICATE

LEGAL PRACTICE N5

(1303115)

15 November2018 (X-Paper)
09:00–12:00

This question paper consists of 7 pages.

Copyright reserved

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 crossed out clearly.

INSTRUCTIONS AND INFORMATION

1. SECTION A is COMPULSORY.
2. Answer any FIVE 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 by point, but always in full sentences.
6. Write neatly and legibly.

Copyright reserved

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 number (1.1.1–1.1.10) in the ANSWER BOOK.

1.1.1 Only an advocate may act as public prosecutor on behalf of the state.

1.1.2 Paralegals may act in an advisory capacity only in certain legal matters.

1.1.3 A commissioner is the presiding officer in the small claims court.

1.1.4 The law society protects the public against exploitation by attorneys, for example against excessive consultation fees.

1.1.5 The Constitutional Court is the supreme law of the Republic.

1.1.6 To obtain a liquor license, the applicant must be 18 years and older.

1.1.7 The CCMA is a dependant body which deals with labour-related matters.

1.1.8 It is a general court rule that the loser pays the legal costs.

1.1.9 A default judgment means that the court gives judgement in favour of the plaintiff.

1.1.10 No witness is required when signing a collusive agreement.

1.1.11 All collusive agreements must be in writing.

1.1.12 A codicil is an addition to an existing will.

1.1.13 Customary law generally refers to written law.

1.1.14 Any person may sign as a witness to a testament.

1.1.15 When an insolvent person wants to rehabilitate, it may be done after one month.

(15 × 2) (30)

Copyright reserved

1.2 Choose a term from COLUMN B that matches a description in COLUMN A. Write only the letter (A–J) next to the question number (1.3.1–1.3.10) in the ANSWER BOOK.

COLUMN A		COLUMN B	
1.2.1	A court order to make monthly deductions upon debtor's salary	A	power of attorney
1.2.2	The bequest of a specific asset or a specific amount of money	B	emoluments order
1.2.3	A written authorisation to act on another's behalf in a legal action	C	liquid
1.2.4	The process of cancelling a previous will	D	revocation
1.2.5	A claim that has been dismissed or rejected by a judge in a court of law	E	a legacy
1.2.6	A case involving one individual against another individual person	F	uberrimae fides
1.2.7	A case involving the state against an individual person	G	absolution
1.2.8	Duty to act in the utmost good faith	H	illiquid
1.2.9	The claim used in a combined summons	I	criminal action
1.2.10	The exact amount of a debt acknowledged in writing	J	civil action

(10 × 2) (20)
[50]

TOTAL SECTION A: 50

SECTION B

Answer only FIVE questions from this section.

QUESTION 2

2.1 Candidate attorneys play an important role in the South African legal profession and in the world.

2.1.1 List the prescribed legal qualification for admission as an attorney. (2 × 1) (2)

2.1.2 Explain any FIVE duties an attorney typically performs for clients. (5 × 2) (10)

2.2 A testator is a person who makes a valid will. A will is the document by which a deceased person disposes of his or her property.

2.2.1 What is the person called who dies without a valid will? (2 × 1) (2)

2.2.2 What happens to the estate of a testator who dies without any blood relatives? (2 × 1) (2)

2.3 Explain the formalities for a valid will stipulated in the Wills Act and the common law. (7 × 2) (14)

[30]

QUESTION 3

All client files in an attorney's office must be stored in an orderly, systematic fashion to facilitate easy access.

3.1 List any SIX filling methods. (6 × 2) (12)

3.2 What do you understand by the term *jurisdiction*? (2 × 1) (2)

3.3 List THREE factors which affect the jurisdiction of the court. (3 × 2) (6)

3.4 Distinguish between a *criminal case* and a *civil case*. (5 × 2) (10)

[30]

Copyright reserved

QUESTION 4

Since the introduction of the Constitution, customary law no longer is regarded as an important source of South African law.

4.1 In which year was the South African Constitution introduced? (2 × 1) (2)

4.2 Explain FOUR requirements that should be met before a custom may qualify as law. (4 × 2) (8)

4.3 Swearing a false oath is a criminal offence. Answer TRUE or FALSE. (2 × 1) (2)

4.4 A written declaration under oath made before a Commissioner of Oaths is called …. (2 × 1) (2)

4.5 List THREE persons who may qualify on account of their office to act as Commissioner of Oaths. (3 × 2) (6)

4.6 Explain the meaning of the term *power of attorney* by referring to TWO types of power of attorney. (5 × 2) (10)

[30]

QUESTION 5

The magistrate's court is a court of first instance. This means that cases may commence in this court and that it has no authority to hear appeals.

5.1 List SIX examples of cases in which the magistrate's court will have no jurisdiction. (6 × 2) (12)

5.2 It may sometimes happen that a party in a case will have reason to object to a summons or a pleading. This may be done by 'notice of exception.'

Explain FIVE possible exceptions of summons. (5 × 2) (10)

5.3 Explain how a 'collusive agreement' differs from a 'notarial agreement'. (4 × 2) (8)

[30]

Copyright reserved

QUESTION 6

An executor is a person nominated by the testator to carry out the instructions of the will.

6.1	List FIVE duties of an executor.	(5 × 2)	(10)
6.2	List examples of people who may not be appointed as executor.	(5 × 2)	(10)
6.3	List SIX functions of the law society of South Africa.	(5 × 2)	(10)
			[30]

QUESTION 7

A letter of demand is generally the initial step in the civil litigation process. In this letter, the applicant must outline the amount claimed and the particulars of that claim.

7.1	Discuss a letter of demand.	(7 × 2)	(14)
7.2	The telephone is an important method of communication in the modern world. Briefly explain the different telephone manners and techniques an attorney's office should follow.	(8 × 2)	(16)
			[30]

TOTAL SECTION B: 150
GRAND TOTAL: 200

Copyright reserved