higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LEGAL PRACTICE N5

18 NOVEMBER 2019

This marking guideline consists of 7 pages.

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SECTION A (COMPULSORY)

QUESTION 1

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

(15 × 2) (30)

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

(10 × 2) (20)
[50]

TOTAL SECTION A: 50

SECTION B

Candidate may answer any FIVE questions from SECTION B.

QUESTION 2

2.1
- 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
- Handling the establishing of companies
- Doing debt collection by recovery of debts from debtors
- Conveyance – transfer of immovable property and bonds
- Preparing court documents
- Consulting with advocates
- Drawing up of wills and handling administration of estates

(Any relevant 6 × 2) (12)

2.2
- Partners or directors
- Professional assistants
- Consultants and fellows
- Administrative stuff (4 × 2) (8)

2.3
- Interviewing the 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 government gazette
- Determining solvency of estate
- Handling maintenance claims
- Payment of interim advances
- Payment of estate liabilities
- Drafting liquidation and distribution account (Any 5 × 2) (10)

[30]

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QUESTION 3

3.1
- Common Law
- Legislation (Statute Law)
- Judicial Precedent
- Custom (4 × 2) (8)

3.2 Common Law
- Roman Law
- Roman-Dutch Law
- English Law

Legislation (Statute Law)
- Most important source of modern law
- Legislation passed by South African parliament
- Claims for delivery and transfer of goods

Custom
- Origin 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 (Any THREE)

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 (12 × 1) (12)

3.3
- Horizontal method
- Vertical method
- Tubular method
- Various filing system
- Alphabetical filing system
- Numerical filing system
- Centralised filing system
- Decentralised filing system
- Alphabetical centralised cards
- Decentralised registers (Any 5 × 2) (10)

[30]

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QUESTION 4

4.1
- Trust account
- Business account (2 × 2) (4)

4.2 Trust account
- Keeps all monies which belong to clients in this account
- For services still to be rendered
- For example purchase 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 paid in this account
- Cheque and receipt book used for this account (8 × 2) (16)

4.3
- Notarial agreement
- Collusive agreement (2 × 2) (4)

4.4 Heading
- Type of agreement
- Full names of parties
- Addresses of parties (3 × 2) (6)

[30]

QUESTION 5

5.1
- Absolute trust
- Confidentiality
- Best interest of justice (Any 2 × 2) (4)

5.2
- Heading
- Liquidation account
- Recapitalisation statement
- Distribution account
- Income and expenditure account
- Fiduciary asset account
- Estate duty addendum
- Certificate by the executor (Any 5 × 2) (10)

5.3 The right a person gives to another to do something on his behalf (2)

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

General power of attorney✓
- In this case the powers/rights are more extensive and concerns more than one task to be executed✓✓(5 × 2
- For example handling of assets and financial affairs✓ (4 + 4) (8)

5.5
- 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
- Must be a written contract (Any 3 × 2) (6)

[30]

QUESTION 6

6.1
- Eviction regarding delivery of immovable and movable property
- Eviction of a person from premises
- Right of way
- Liquid documents
- Credit agreements
- Drug trafficking
- Drunken driving (Any 5 × 2) (10)

6.2
- Damages
- Rent in arrears
- Eviction (3 × 2) (6)

6.3
- Must be in writing
- Must be sent by registered mail
- Proof of sending it must be kept as documentary evidence
- Nature of claim
- Names of the plaintiff
- Names of the defendant
- Amount owing
- Interest payable
- Number of days for the defendant to respond (Any 7 × 2) (14)

[30]

QUESTION 7

7.1
- Information on cover page, for example name of client, address and case reference number✓✓
- Complete register to keep record of all files✓✓
- Inform accountant regarding new file✓✓
- Attach account statement inside file✓✓
- Attach progress report to file✓✓
- Place all correspondence documents inside file✓✓
- Once file is full, open new one with new reference number✓✓ (7 × 2) (14)

7.2
- Full name
- ID number
- Address
- Marital status
- Solvency status
- Signature (Any 5 × 2) (10)

7.3
- Court case
- Deeds (2 × 2) (4)

7.4 Deponent (2)
[30]

TOTAL SECTION B: 120
GRAND TOTAL: 150

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