higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE

LEGAL PRACTICE N5

(13030115)

28 September 2020 (X-paper)
09:00–12:00

This question paper consists of 10 pages and THREE addenda of 4 pages.

108Q1B2028

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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 will be marked. Clearly cross out all work you do not want to be marked.

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. Start each question on a new page.

6. Answer QUESTION 6.2 on ADDENDUM C. Write your EXAMINATION NUMBER in the spaces provided. Detach the addendum from the question paper and place it inside your ANSWER BOOK.

7. All the answers must be in full sentences except where indicated otherwise.

8. Write neatly and legibly.

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SECTION A (COMPULSORY)

QUESTION 1

1.1 Indicate whether the following statements are TRUE or FALSE by writing only 'True' or 'False' next to the question number (1.1.1–1.1.15) in the ANSWER BOOK.

1.1.1 A chief justice of the Constitutional Court is assisted by 10 judges.

1.1.2 A commissioner is a presiding officer of the Small Claims Court. ⌘

1.1.3 Legal advisers usually have the same qualifications as attorneys and advocates.

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

1.1.5 All closed files must be kept in the attorney's office for a period of three years. ⌘

1.1.6 National law governs the relationship between different countries.

1.1.7 Customary law is the most important source of South African law.

1.1.8 Stealing is an example of a common law transgression.

1.1.9 The right of the court to handle a case is known as jurisdiction.

1.1.10 Supreme court documents must be typed or printed in blue-black or blue ink.

1.1.11 A codicil is an addition or addendum to an existing will.

1.1.12 Only the first and last page of a will must be initialled. ⌘

1.1.13 Descendants of a testator include parents, grandparents and great-grandparents.

1.1.14 A joint will is a simple document in which one person expresses his/her wishes regarding his/her estate.

1.1.15 The Master is usually responsible for administering the estate of the deceased.

(15 × 2) (30)

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1.2 Choose an item from COLUMN B that matches a description in COLUMN A. Write only the letter (A–N) next to the question number (1.2.1–1.2.10) in the ANSWER BOOK.

COLUMN A		COLUMN B	
1.2.1	Delivers all court documents, such as a summons	A	Magistrate's court
		B	Constitutional Court
1.2.2	Can only act in an advisory capacity in certain legal matters	C	CCMA ⌘
1.2.3	The oldest means of creating law	D	sheriff
1.2.4	Law made through court judgments	E	civil action
1.2.5	A claim has been dismissed or rejected by the judge in the court of law ⌘	F	affidavit
		G	absolution
1.2.6	A legal case that involves an individual against another individual	H	criminal action
		I	customary law
1.2.7	A court of first instance	J	common law
1.2.8	An independent body, unaffiliated to any political party	K	attorney
1.2.9	Its purpose is to provide proof of a fact	L	paralegal ⌘
		M	judicial precedent
1.2.10	An act that binds two individuals	N	agreement

(10 × 2) (20)
[50]

TOTAL SECTION A: 50

SECTION B

Answer any FIVE questions in this section.

QUESTION 2

The admission requirements for legal practitioners (attorneys or advocates) in South Africa are currently prescribed by the Legal Practice Act. All persons wishing to enter the profession must comply with these requirements to be admitted as an attorney or advocate.

2.1 Write down the prescribed academic qualification (degree) that a person would study towards in order qualify for admission as an attorney. (2)

2.2 The names of all qualified and practising attorneys are featured on a list, called the … (2)

2.3 Describe any FOUR tasks typically done by an attorney that would describe the work they do. (4 × 2) (8)

2.4 You have been asked to explain to fellow students the differences between the training and functions of attorneys and advocates.

Display your responses in tabular format. (4 × 2) (8)

2.5 A very good friend of yours, who is employed and recently got married, approaches and asks whether you can draft a will for him.

Advise him on the formalities that must be complied with in order for any will to be valid. (5 × 2) (10)

[30]

QUESTION 3

3.1 Legal documents must meet the prescribed requirements regarding the typing and preparation. The Registrar of the High Court or the Clerk of the Lower Court may refuse legal documents should they not meet the requirements of the court.

Outline SIX of these prescribed court requirements. (6 × 2) (12)

3.2 Discuss *sequestration* in your own words. Do not give an example. (4 × 2) (8)

3.3 You want to file a complaint against your attorney, Mr Leto Maputla, who has stolen your money. You have sufficient proof of this.

3.3.1 Where would you file a formal complaint against Mr Maputla? (2)

3.3.2 Explain the steps you would follow in filing your complaint. (4 × 2) (8)

[30]

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QUESTION 4

4.1 You work at an attorney's office as a legal secretary. A client who has to complete and sign a lease agreement, asks you what she must write in the section that refers to the client's *domicilium citandi et executandi.*

Explain briefly what this Latin term means. ⌘ (2)

4.2 Consult ADDENDUM A attached to the question paper and answer the questions.

4.2.1 State the name of the deponent of this affidavit. (2)

4.2.2 Give a reason why this affidavit was made. (2)

4.2.3 In general, are affidavits legally binding? Say 'yes' or 'no' and give a suitable reason for your answer. (3)

4.2.4 Can an affidavit be handwritten? Say 'yes' or 'no' and give a suitable reason for your answer. (3)

4.2.5 Who verifies the authenticity of an affidavit? (3)

4.2.6 Consider the following situation and comment. After making an affidavit, Yolanda realised she had made a mistake. Can her affidavit be revoked or amended? Say 'yes' or 'no' and give a suitable reason for your answer. ⌘ (3)

4.2.7 Assume that an affidavit can be withdrawn or rectified by the deponent. State how the deponent can go about rectifying mistakes made on the affidavit they had made. (2 × 2) (4)

4.2.8 Is there an age limit or requirement to signing an affidavit? Say 'yes' or 'no' and give a suitable reason for your answer. (3)

4.2.9 Comment of the following statement:

A minor can make and sign an affidavit as long as he/she is old enough to understand the significance of the oath and affirmation of facts. ⌘ (2)

4.2.10 What will happen to you if lie in your affidavit?

HINT: Highlight the meaning and consequences of lying. (3)

[30]

QUESTION 5

5.1 Read ADDENDUM B attached to this question paper and answer the questions.

5.1.1 Correctly identify the legal document in ADDENDUM B. (2)

5.1.2 What is the aim and purpose of document J155 in the addendum? (2)

5.1.3 Briefly explain (in general terms) who the applicant is in paragraph 3 of document J155. (2)

5.1.4 Assume a situation where the deceased did not appoint anybody to administer the estate. In what relationship to the deceased must anybody stand before he/she would be appointed executor of the deceased's estate?

HINT: Name TWO such persons. (2 × 2) (4)

5.1.5 Consider ADDENDUM A of QUESTION 4.2 above. Yolanda Krutani made an affidavit in which she listed the relatives of the deceased, her father, Johannes Krutani. Should Yolanda be a minor at the time of making the affidavit, will she be considered by the Master to be appointed an executor dative of her father's estate? Briefly explain. (2)

5.1.6 Explain the correct meaning of the term *unrehabilitated insolvent* as shown in paragraph 10 of document J155. (2)

5.2 Read the following scenario and answer the questions.

Recently, you successfully completed a Legal Secretary Paralegal Diploma at NQF Level 6. You work at an attorney's office. A member of the public approached you, enquiring whether there is somebody in the office who could give him advice on a personal problem.

The person has bought a house and is looking to appoint somebody to handle the transfer of the property into his name. He will be overseas on business for an extended period of time and needs somebody to handle this case on his behalf.

You know it is unethical for a paralegal to give legal advice. Hence you informed the person that you might be able to help him, but that it would be in his best interest to make an appointment to see one of the attorneys at the firm where you work.

5.2.1 Before advising the person regarding the type of power of attorney he can choose from, what particular question would you ask him that would let you decide on the advice you are about to give? (2)

5.2.2 Advise this person on which type of power of attorney would be best suited to his needs and give an acceptable reason for your answer. (2 × 2) (4)

5.2.3 Which particular type of power of attorney would you advise where a high degree of trust exists between the grantor and the proxy? (2)

5.2.4 Write down a valid reason for your choice in QUESTION 5.2.3 above. (2)

5.2.5 Assume the power of attorney was granted to attorney X who is in partnership with four other attorneys. On the day when the transfer came through, attorney X is not available. Will the transfer of the house still go ahead as originally planned? ⌘

Say 'yes' or 'no' and give a suitable reason for your answer. (2 × 2) (4)

5.2.6 What is the motive behind including the words *with power of substitution* in a power of attorney document? (2)

[30]

QUESTION 6

6.1 Explain the negative effects of insolvency. (5 × 2) (10)

6.2 You are Lucy Diale, working as a secretary in an attorney's firm, called Big Five Global. On 25 May 2020, at 10:00, you received a phone call from a client, Mr Sibeko (a businessman). He wanted to speak to one of the attorneys, Mr Wayne Luzett, who is currently on holiday. After you had informed the caller about the unavailability of Mr Luzett, you took down the details of Mr Sibeko's message. He wanted to cancel his meeting on 28 May 2020 with Mr Luzett. ⌘

Use attached ADDENDUM C to complete the telephone message taken for Mr Luzett.

REMINDER: Detach ADDENDUM C from the question paper and place it inside your ANSWER BOOK. (10)

6.3 Consider the phone call from Mr Sibeko in QUESTION 6.2 above and the message you took for Mr Luzett. ⌘

Give FIVE actions or procedures you would follow to make sure Mr Luzett gets this message when he returns to work on 27 May 2020. (5 × 2) (10)

[30]

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QUESTION 7

7.1 Read the following scenario and answer the questions.

You have been working as a secretary in a law firm for six months. At one of the meetings, it was mentioned that the office intern struggles with the office filing system currently in use.

On hearing this, the senior partner approached you and asked whether you would investigate and introduce a new system of filing for the practice.

Currently your office uses a centralised alphabetical filing system, whereby client and other administration files are stored according to the horizontal filing method.

7.1.1 Since you were asked to introduce a new filing system in your office, you did some research and found the following data (below).

Want to introduce a new filing system that will improve the way you organise your files in your law practice?
Use these tips and see for yourself!

First things first: Take a good look at your current system.
Declutter your office.
Set up your own system: Keep or throw away.
Organise everything as though there is no tomorrow.
Design your own system.
Follow-through and audit must take place at regular intervals.

Do you think the above tips can make a difference to your current situation? Critically evaluate and briefly motivate your decision to introduce the above tips in your new office filing system. (2 × 2) (4)

7.1.2 Name TWO reasons why your current filing system and method are not working as one would expect.

HINT: Examine your existing filing system and method to get to the reasons you are looking for. (2 × 2) (4)

7.1.3 Give a brief explanation of the filing methods and systems you want to introduce and what made you decide on those. (3 × 2) (6)

7.2 One of the aims of the subject Legal Practice is to give students a basic knowledge and understanding of the role and functions of the various legal practitioners who practise law in both the public and private sector in South Africa. ⌘

To this effect, copy the table below in the ANSWER BOOK and complete the blank spaces as indicated

	Qualifications	**Nature of work**	**Court/s in which they (may) appear**	**Types of cases heard**
Attorneys				
Commissioners				
Magistrates				
Paralegals				

⌘

(16)
[30]

TOTAL SECTION B: 150
GRAND TOTAL: 200

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ADDENDUM A

GP-S 81/811521

J192

(81/811521)

REPUBLIC OF SOUTH AFRICA

AFFIDAVIT

PARTICULARS OF NEXT-OF-KIN

I, ...Yolanda Krutani. .....

of.....120 Protea Street, Wynberg, 7800 .....

.....

*do hereby make oath and say/affirm that within is a true and complete statement of the
next-of-kin of the deceased, and I make this statement conscientiously, believing the same to be true.

.....Y. Krutani..... .....Y. KRUNTANI.....

Signature *Print Name and Surname*

Signed and *sworn to/affirmed before me at …WYNBERG, CAPE TOWN.....

this. 4th.. day of..MAY..... in the year ...2020.....

The deponent has acknowledged that he/she knows and understands the contents of this affidavit and adheres to it.

.....P. J. van der Merwe..(captain SAPS) 19957821.....

**Magistrate/Justice of the Peace*/Commissioner of Oaths*

Area for which appointed ... WYNBERG POLICE STATION, CAPE TOWN .....

If appointment is held ex officio, state office held .....

* Delete if not applicable.

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* Separate affidavits in respect of each predeceased child must be completed.

Names and addresses of the next-of-kin of the late..*JOHANNES KRUTANI*.....

who died at..*WYNBERG, CAPE TOWN*..... on ...*7 APRIL 2020*.....
(Place) (Date)

NOTE: The date of death is to be inserted opposite the name of any deceased relative. Against those degrees of relationship in which the deceased never had any relative, the word 'NONE' is to be inserted.

Relatives to be accounted	**Names of relatives and degree of relationship**
1. Surviving spouse:	*Eunice Akha Kruntani*
2. Children and date of their birth. Also state names of *predeceased children and their dates of death:	*Yolanda Kruntani (born 30 Sep 1994)* *Thabo James Krutani (born 23 Jan 1988)* *Alfred Krutani (deceased 12 Jan 2014)*
Ignore questions 3, 4 and 5 if the deceased left children or descendants. 3. Father of deceased: Mother of deceased:	
Ignore questions 4 and 5 if the parents are both alive. 4 Brothers and sisters of the deceased. State whether full or half blood, and their addresses and dates of birth. State the name of the stepparent of half-brothers and half-sisters:	
5. Names of brothers and sisters who are dead, date of deaths, and names, addresses and dates of birth of their children, if any	

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ADDENDUM B

J155

REPUBLIC OF SOUTH AFRICA

UNDERTAKING AND ACCEPTANCE OF MASTER'S DIRECTIONS BY EXECUTOR/EXECUTRIX

[SECTION. 18 (3), ACT No. 66 OF 1965

ESTATE No. .....

1. Estate late .....
(Full names and surname)

died on ..... Identity number | | | | | | | | | | | | | |

2. District where deceased was residing .....

3. Full names of applicant .....

Identity number | | | | | | | | | | | | | | *A certified copy of the applicant's Identity Document must accompany this form*

4. Relationship to deceased .....

5. Residential address ..... Postal address .....

....

Telephone number (Home) ..... - ..... Telephone number (Work) ..... - .....

6. Name and postal address of agent (if applicable) .....

..... Telephone number ..... - .....

7. I undertake to administer the estate, to pay the debts from the estate assets and to distribute any balance according to the Master's directions in terms of section 18 (3) of the Estates Act, 1965, and accept that I am bound by any amendment or cancellation of such directions.

8. I undertake that I shall not administer any asset(s) which has/have not been reflected in the section 9 inventory, and as soon as it becomes known to me that the value of the assets exceeds R250 000 to report to the Master this fact and to return the directions.

9. I confirm that to the best of my knowledge the estate is solvent and undertake to immediately advise the Master when it becomes known to me that the estate is insolvent. That to my knowledge the known liability/ies of the estate is/are as follows:

.....

.....

10. I hereby declare that I am not an unrehabilitated insolvent.

Signed on ....
(Date) ***Signature of applicant***

.....
PRINT NAME AND SURNAME

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ADDENDUM C **EXAMINATION NUMBER:** | | | | | | | | | | | | | |

QUESTION 6.2

MESSAGE

To _____

From _____

Telephone_____ Date_____

	Phoned	Came to see you	
	Please phone back	Request an Appointment	
	Will phone again	Returned call	

Message

_____

_____

_____

_____

Time _____

Taken by _____

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