higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LEGAL PRACTICE N6

29 NOVEMBER 2019

This marking guideline consists of 9 pages.

Copyright reserved

SECTION A

QUESTION 1

1.1 False
1.2 True
1.3 False
1.4 False
1.5 True
1.6 True
1.7 True
1.8 True
1.9 True
1.10 True

(10 × 1) **[10]**

QUESTION 2

2.1 C
2.2 C
2.3 D
2.4 A
2.5 B

(5 × 2) **[10]**

QUESTION 3

3.1 B
3.2 D
3.3 E
3.4 F
3.5 C
3.6 J
3.7 G
3.8 H
3.9 I
3.10 A

(10 × 2) **[20]**

QUESTION 4

4.1 Conveyancer
4.2 Land servitude
4.3 Deed of transfer
4.4 Capital gains tax
4.5 Stamp duty

(5 × 2) **[10]**

TOTAL SECTION A: 50

Copyright reserved

SECTION B

QUESTION 5

5.1
- A contract of sale is a reciprocal contract
- in terms of which the seller undertakes to deliver a product/property
- to another person, the purchaser,
- and the purchaser in turn undertakes to pay the required sum of money.

(4 × 2) (8)

5.2
- Mortgagor – the debtor who obtains the loan to finance the property bought
- Mortgagee – the creditor (person who accepts the bond as security in exchange for money borrowed to the mortgagor) (2 × 2) (4)

5.3
- Interest on mortgage bond
- Cost to register the bond
- Stamp duties (3)

5.4
- A suspensive condition means that the operation of the contract is suspended until the occurrence of an uncertain future event.
- In this contract, it might be that the buyer buys the property on the condition that his or her bond is registered or on the condition that his or her own property must first be sold. (2 × 2) (4)

5.5
- In writing
- Registered (2)

5.6
- Title deed
- Power of attorney
- Solvency statement
- Tax clearance certificate
- Guarantees
- Rates clearance certificate (Any 4 × 1) (4)

5.7
- Must be in writing and signed by the parties themselves or by their proxy or agents
- Must contain the identity of the parties (full names, identity numbers, marital status)
- Must identify the land (property description)
- Must state the purchase price, with an explanation of the means of payment in money
- Must give an indication that both parties intend to buy and sell, respectively (5)

[30]

Copyright reserved

QUESTION 6

6.1 6.1.1 The extension clause – First transferred and still held by … No T829/345

6.1.2 Property clause – Erf 2188, Elsies River

6.1.3 The preamble
Be it hereby … Jessica Jasson, identity number…….

6.1.4 The consideration clause – the purchase price of R790 000

6.1.5 The causa – and the said Appearer declared … had truly and legally sold

(5 × 1) (5)

6.2 6.2.1 Naomi Sampson (1)

6.2.2 Jessica Jasson (1)

6.2.3 When the property was registered at the deeds office (1)

6.2.4 Songezo Mtwye (1)

6.2.5 Up to R750 000 – nil✓
R750 001 – R790 000 = R1 200✓✓
TOTAL R1 200✓✓ (5)

6.3 **POWER OF ATTORNEY TO PASS TRANSFER**

I/We, the undersigned

Jessica Jasson✓

ID 3107140035084✓

Married✓

do hereby appoint **Songezo Mtwye✓** and/or

with the power of substitution to be my true and lawful attorney and agent to appear before the

Registrar of deeds✓

and there to declare that I/we did on the **19th** day of **August 2019✓**

Sell to

Naomi Sampson✓

ID number 570717 0037084✓

Married✓

For the sum of **R790 000✓ (seven hundred and ninety thousand rand)✓**

The following property, namely

Erf 2188✓ Elsies River✓

Registration Division, Western Cape, The Province of CAPE TOWN;

IN EXTENT **500✓ (five hundred) square metres✓**

HELD BY DEED OF TRANSFER NO. **T829/345✓** (16)
[30]

QUESTION 7

7.1 7.1.1 Instalment sales transaction/credit transaction (1)

7.1.2 It means that Zandile can take possession of the car, but that it will be repossessed should she not pay, as she will only become the owner when final payment has been made. (2)

7.1.3
- This means that Zandile has five working days in which she can cancel the contract.
- The five working days exclude the day on which the contract was concluded, a Saturday and a Sunday.
- Zandile can return the car.
- Jonell must refund her the purchase price.
- The whole process must be dealt with within 10 days. (5 × 2) (10)

7.1.4

Defect	**Kind of defect** (2 marks)	**Remedy for this kind of defect** (2 marks	**What the buyer can claim** (2 marks)
A broken wiper	Patent defect✓	Specific performance✓	Can demand that the wiper be replaced/repaired✓
Faulty air conditioner	Latent defect✓	Actio quanti minoris✓	Can demand a reduction in the selling price✓

(6)

7.1.5 Take the goods bought as is – with or without defects (1)

7.2 7.2.1 Actual delivery (de manu in manum)
7.2.2 Constitutum possessorium
7.2.3 Traditio longa manu (delivery with the long hand)
(3 × 2) (6)

7.3 7.3.1 No.✓ She must inform the seller that she is being threatened with eviction.✓ (2)

7.3.2 A tacit warrant against eviction (1)

7.3.3 A free and undisturbed possession (1)
[30]

QUESTION 8

8.1 Emancipation
8.2 Par delictum rule
8.3 A mistake
8.4 Negligent misrepresentation
8.5 Duress
8.6 Restraint of trade
8.7 Vis maior (supervening impossibility)
8.8 Caveat subscriptor
8.9 Error in persona
8.10 Damages
8.11 Jurisdiction
8.12 Repayment clause
8.13 Underhand document
8.14 An offer
8.15 Expedition theory
(15 × 2) **[30]**

QUESTION 9

9.1 9.1.1 It means that both spouses have their own estates.✓✓ When they want to get divorced, the difference between the two estates at the end is calculated and the difference is divided equally.✓✓ (2 × 2) (4)

9.1.2
- In community of property
- Out of community of property without the accrual system (2)

9.1.3
- Each spouse has his/her own estate.
- The difference between the two estates will be divided (the accrual)
- Creditors of the one spouse will not be creditors of the other. (3)

Copyright reserved

9.1.4 Accrual = R1,5 million minus R750 000 = R750 000✓
R750 000 divided by two = R375 000✓✓
Husband: R350 000 + R375 000✓
Wife: R210 000 + R375 000✓ (5)

9.2 9.2.1
- Contact their clients as soon as registration has occurred.
- Guarantees must now be fulfilled, for example payment of the seller's outstanding bond.
- Consolidation of accounts now takes place.
- The deeds must be sent to the relevant persons/institutions. (4)

9.2.2
- Electric certificate
- Beetle certificate
- Plumbing certificate
- Tax clearance certificate (4)

9.2.3
- Manage the communal property (maintenance and repairs).
- Pay all tariffs, for example water and electricity.
- Pay insurance for the communal property.
- Implement a fund for the administrative expenses.
- Determine the owners' levies.
- Open a bank account in the name of the development.
- Compile management rules and rules of conduct.
- Manage the communal property to the advantage of all inhabitants. (8)

[30]

QUESTION 10

10.1
- It must be in writing and signed by or on behalf of the parties.
- Include the names of the credit grantor and credit receiver and their business or residential addresses.
- State the amount of the initial payment to be made.
- Describe the goods or services subject to the credit agreement.
- State any applicable conditions.
- Include a condition on the right of the credit grantor to the return of the goods.
- Make reference to section 13 (the cooling-off period).
- State the language in which the credit receiver wants the contract to be written. (Any 5 × 2) (10)

10.2 10.2.1
- Under the age of 18
- Unmarried
- Not declared a major by a court (3)

10.2.2 The minor cannot be contractually bound. (2)

10.2.3
- Ratification occurs when a minor enters into a contract unassisted and his or her parents give their consent afterwards.
- Emancipation means the minor has a job, earns a salary and looks after him- or herself – is thus independent. (2 × 2) (4)

10.2.4 Fraudulent misrepresentation (1)

10.3
- Personal and other servitudes
- Long-term rental agreements of 10 years and above
- Prospecting contracts
- Session of mineral rights
- Mining rental contracts
- Notarial bonds
- Antenuptial contracts (Any 5 × 1) (5)

10.4
- The term of the prospecting
- The compensation
- An option to rent or buy the mineral in future
- Specific rights of the prospector
- Damages caused by the prospector (5)

[30]

TOTAL SECTION B: 150
GRAND TOTAL: 200

Copyright reserved