higher education & training

Department:
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REPUBLIC OF SOUTH AFRICA

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NATIONAL CERTIFICATE

MERCANTILE LAW N4

(13030094)

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09:00–12:00

This question paper consists of 8 pages.

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DEPARTMENT OF HIGHER EDUCATION AND TRAINING
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE
MERCANTILE LAW N4
TIME: 3 HOURS
MARKS: 200

INSTRUCTIONS AND INFORMATION

1. SECTION A is COMPULSORY and must be answered by ALL candidates.
2. Answer any THREE questions from SECTION B.
3. Read ALL the questions carefully.
4. Number the answers according to the numbering system used in this question paper.
5. Write neatly and legibly.

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SECTION A

QUESTION 1

1.1 Various options are given as possible answers to the following statements. Choose the answer and write only the letter (A–D) next to the question number (1.1.1–1.1.15) in the ANSWER BOOK.

1.1.1 ... is when the two parties agree to end the existing agreement between them and to have a new one drawn up to replace the existing agreement.

A Waiver
B Merger
C Novation
D Mutual agreement

1.1.2 ... deals with the personality of the individual.

A The law of persons
B Family law
C The law of individuality
D Criminal law

1.1.3 Which ONE of the following statements regarding 'constitutional law' is correct?

A Consists of the rules regarding the committing and punishment of a crime by the state.
B It is a collection of rules defining what the state is, its composition, its powers and functions, and how the different state departments function.
C Concerns the structure, powers and functions of the government departments, and tells us how the administration of the state works.
D Concerns the relationship between nations.

1.1.4 Which ONE of the following options regarding the requirements for a valid offer is correct?

A The offer must be made in clear, unambiguous and definite terms.
B It must be possible to carry out the offer.
C The offer must be communicated to the addressee.
D Only A and B

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1.1.5 The transaction whereby the seller sells goods to the buyer against the payment of a stated or determinable sum of money at a stated or determinable future date.

A Credit receiver
B Credit grantor
C Credit agreement
D Instalment sales transactions

1.1.6 Which ONE of the following statements is not an example of a reasonable mistake?

A Mistake in law
B Nature of agreement
C Nature of the subject
D Qualities of the subject matter

1.1.7 A third person acquires the rights of use and occupation of the leased property from the tenant while the tenant is still liable for his/her duties.

A Cession
B Subletting
C Assignment
D Delegation

1.1.8 ... is a mutual agreement according to which one person, the seller, undertakes to deliver a thing to another person, the buyer, and guarantees free possession of the thing in return for a stipulated sum of money.

A Credit agreement
B Valid contract
C Contract of sale
D Purchase price

1.1.9 ... is a contract to give a thing in return for money.

A Services
B Sale
C Lease
D Price

1.1.10 The contract of service can be terminated in different ways.

A Expiry of time
B Death of employee
C Dishonesty
D Mutual agreement

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1.1.11 Which ONE of the following is NOT an example of 'the law of things'?

A The law of property
B The law of contracts
C The law of delict
D Matrimonial property

1.1.12 The debtor refuses to perform his or her part of the deal.

A Repudiation
B Mora debitoris
C Positive non-performance
D Impossibility of performance

1.1.13 Which ONE of the following is not a landlord's duty?

A Receive rent from the tenant.
B Compensate tenant for fixtures and improvements.
C Take proper care of the property.
D Provide tenant free use and enjoyment of property.

1.1.14 The credit receiver is entitled to terminate the agreement unilaterally within ... days from the date the parties entered into the agreement.

A 10
B 3
C 5
D 7

1.1.15 An illegal contract made under a mistake has no effect on the validity of a contract and is ...

A voidable
B valid
C unenforceable
D void

(15 × 2) (30)

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

COLUMN A		COLUMN B	
1.2.1	Full contractual capacity	A	person can only enter into binding agreements when completely sober otherwise contract is void
1.2.2	Mercantile law	B	person under the age of 21 years
1.2.3	Resolutive condition	C	relationship between government departments and people
1.2.4	Tacit emancipation	D	person who carries on business in enemy territory may not sue in our courts and all business activities are prohibited
1.2.5	Servant	E	does a particular piece of work and must supply own means to perform the work
1.2.6	Minor	F	regulates laws concerning business transactions in commerce and industry
1.2.7	'Voetstoots' sale	G	buyer must meet the condition to avoid loss or risk of cancellation by seller
1.2.8	Drunk person	H	person over the age of 21 years
1.2.9	Constitutional law	I	buyer accepts goods with all its faults and defects without any guarantee
1.2.10	Allien enemies	J	works under supervision or direct instructions and control of employer
		K	minor is allowed by his guardian to carry on business or any other occupation on his own behalf for his own account

(10 × 2) (20)
[50]

TOTAL SECTION A: 50

SECTION B

QUESTION 2

2.1 Name THREE instances in which a contract may be void and give examples of each. (6 × 2) (12)

2.2 State FIVE cases where the seller will not be responsible for latent defects. (5 × 2) (10)

2.3 Name FOUR characteristics of an independent contractor. (4 × 2) (8)

2.4 A complete agreement means that the agreement consisted of an offer and acceptance of the offer.

With regard to the above statement, list SIX requirements for a valid offer. (6 × 2) (12)

2.5 List EIGHT ways in which a lease can be terminated. (8)

[50]

QUESTION 3

3.1 List FIVE instances in which the buyer cannot use the actio redhibitoria. (5 × 2) (10)

3.2 Explain in detail the implied duties of a tenant. (10 × 2) (20)

3.3 Briefly explain the different types of constructive delivery applicable to movable property. (5 × 4) (20)

[50]

QUESTION 4

4.1 Name THREE duties of a buyer. (3 × 2) (6)

4.2 Differentiate between the TWO parties involved in a credit agreement. (4 × 2) (8)

4.3 List FIVE forms of breach of contract. (5 × 2) (10)

4.4 A contract can be terminated in different ways of which the most common is when both parties have fulfilled their obligations in terms of the contract.

4.4.1 Define the term *contract*. (2)

4.4.2 Briefly explain various ways in which one can terminate a contract. (8 × 3) (24)

[50]

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QUESTION 5

5.1 Name the FOUR divisions of private law. (4)

5.2 List NINE reasons why an employer may summarily dismiss or discharge an employee without notice.
(9 × 2) (18)

5.3 Differentiate between *mentally ill persons* and *insolvent persons*. (14 × 2) (28)
[50]

TOTAL SECTION B: 150
GRAND TOTAL: 200

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