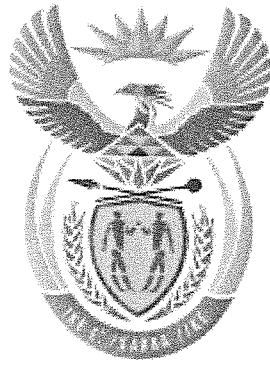
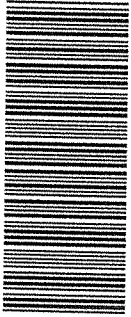


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higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

**N1290(E)(J12)H
JUNE EXAMINATION**

NATIONAL CERTIFICATE

PUBLIC LAW N6

(13030136)

**12 June 2013 (X-Paper)
09:00–12:00**

This question paper consists of 6 pages.

DEPARTMENT OF HIGHER EDUCATION AND TRAINING
REPUBLIC OF SOUTH AFRICA
NATIONAL CERTIFICATE
PUBLIC LAW N6
TIME: 3 HOURS
MARKS: 200

INSTRUCTIONS AND INFORMATION

1. Answer ALL the questions.
 2. Read ALL the questions carefully.
 3. Number the answers according to the numbering system used in this question paper.
 4. Write neatly and legibly.
-

SECTION A**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 question number (1.1.1–1.1.10) in the ANSWER BOOK.

- 1.1.1 In South Africa the legislative power is vested in Parliament.
- 1.1.2 The director of public prosecutions is responsible for all criminal cases in the provinces, so all the prosecutors are under his/her control.
- 1.1.3 The registrar of the high court functions are mainly administrative and to issue procedural documents.
- 1.1.4 The supreme court of appeal which is used to be known as the appellate division sits in Pretoria and is the highest court in respect of all matters.
- 1.1.5 The proposal to introduce a traditional or customary courts is a threat to democracy in South Africa.
- 1.1.6 Chapter 8 of the final constitution entitled 'Courts and Administration of Justice' sets out the structure of the South African court system and defines the role of each court.
- 1.1.7 When a person is charged with fraud and corruption the case will normally be heard at the income tax court.
- 1.1.8 Mercantile law is the branch of law that regulates the relationship between state and subjects.
- 1.1.9 According to the Doctrine of Division of powers there must be a body or an institution in every state with which the highest authority rests.
- 1.1.10 Where the death of a person must be registered with proper authorities the law of persons would apply.

(10 × 2) (20)

1.2 Complete the following sentences by filling in the missing word(s). Write only the word(s) next to the question number (1.2.1–1.2.10) in the ANSWER BOOK.

1.2.1 If an applicant can prove that a particular action will be to his disadvantage or infringe on his/her rights, he/she can apply for an ...

1.2.2 The ... court is the highest court in the country when it comes to the interpretation protection and enforcement of the constitution.

1.2.3 The ... court specializes in dealing with disputes that underpin South African land reform initiatives.

1.2.4 ... law regulates the relationship between the ... and subjects.

1.2.5 The person instituting the claim is the ... and the ... is the person against whom the claim is instituted.

1.2.6 There are three forms of delegation namely ..., ... and

(10 × 2) (20)

1.3 Give ONE word/term for each of the following descriptions. Write only the word/term next to the question number (1.3.1–1.3.5) in the ANSWER BOOK.

1.3.1 Merger between Roman Law and Dutch indigenous law

1.3.2 The branch of law which regulates the relationship between government and its citizens and state departments

1.3.3 The function of the court is to concern itself with the care and protection of the children

1.3.4 All administrative actions of the state organs are permitted by law.

1.3.5 This is a manner in which cases are brought from the lower court to the high court for revision purposes.

(5 × 2) (10)
[50]

SECTION B

Answer any FIVE questions in this section.

QUESTION 2

- 2.1 Briefly explain the contribution that was made by Roman Dutch law in the South African legal system. (5 × 2) (10)
- 2.2 In order to establish whether an administrative legal body is a body of the state, a number of tests must be applied simultaneously.
Explain these tests. (10)
- 2.3 Explain briefly the functions of the *master of the supreme court*. (10 × 1) (10)
- [30]**

QUESTION 3

- 3.1 Name the various types of administrative proceeding. (10)
- 3.2 Name and explain TWO types of legal relationships. Give an example and name the demands. (6)
- 3.3 Distinguish between the:
3.3.1 golden rule of interpretation
3.3.2 literal interpretation of laws. (3 × 2) (6)
- 3.4 Explain the civil liability of the state with reference to articles of law. (8 × 1) (8)
- [30]**

QUESTION 4

- 4.1 Write down explanatory notes on powers and functions of the constitutional court with regard to constitutional matters. (10)
- 4.2 Briefly explain the external aids in interpretation of laws on the following:
4.2.1 Peripheral circumstances
4.2.2 The source of the article (4 × 2) (8)
- 4.3 Distinguish between *internal relationship* and *independent control* relationship. (12)
- [30]**

QUESTION 5

- 5.1 Briefly explain legislation as an important source of administrative law and the contribution that is made particularly to public servants to execute proper and correct administration. (18)
- 5.2 Define the following terms:
- 5.2.1 Administrative law
- 5.2.2 Mercantile law (3 × 2) (6)
- 5.3 Briefly explain the law as a doctrine in an objective sense. (6)
- [30]

QUESTION 6

- 6.1 Which requirements should a custom comply with before it will be regarded as a source of law?
Explain each ONE. (10)
- 6.2 Explain FOUR objects to which the law exists in relation to the traditional theory of subjective law. (11)
- 6.3 Indicate the application of principle of legality in administration law. (9 × 1) (9)
- [30]

QUESTION 7

- 7.1 Discuss the process of judicial review.
State the most important characteristics of this process and also give ONE example of each of the various kinds of proceedings. (8 × 2) (16)
- 7.2 Briefly explain the doctrine of division of powers. (10)
- 7.3 Name the forms of control regarding administrative proceedings. (4)
- [30]

TOTAL SECTION B: 150
GRAND TOTAL: 200