



higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

N1290(E)(J24)H
JUNE EXAMINATION

NATIONAL CERTIFICATE

PUBLIC LAW N6

(13030136)

24 June 2014 (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: 100

NOTE: If you answer more than the required number of questions, only the required number of questions will be marked. All work you do not want to be marked must be clearly crossed out.

INSTRUCTIONS AND INFORMATION

1. SECTION A is COMPULSORY.
 2. Choose FIVE from the seven questions in SECTION B.
 3. Read ALL the questions carefully.
 4. Number the answers correctly according to the numbering system used in this question paper.
 5. Write neatly and legibly.
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SECTION A (COMPULSORY)**QUESTION 1**

- 1.1 Complete the following sentences by using the words provided in the list below. Write only the word(s). Write only the word(s) next to the question number (1.1.1–1.1.16) in the ANSWER BOOK.

mandamus; constitutional law; administrative law; respondent; Clerk of the Court; criminal law; local, plaintiff, judge; private law; applicant; court orderly; civil; national law; interdict; defendant; law of evidence; magistrate; criminal; provincial, state

- 1.1.1 The Supreme Court can consist of a/an (a) ... division and a/an (b) ... (4)
- 1.1.2 The presiding officer in the Supreme court is ... (2)
- 1.1.3 The person who maintain order in court is known as the ... (2)
- 1.1.4 The person instituting a claim is the (a) ... and the person against whom the claim is instituted is the (b) ... (4)
- 1.1.5 Public law comprises of (a) ..., (b) ... and (c) ... (6)
- 1.1.6 The (a) ... is defined as a legal person who consists of people living in certain areas under common authority. (2)
- 1.2 Indicate whether the following statements are TRUE or FALSE. Choose the answer and write only 'true' or 'false' next to the question number (1.2.1–1.2.10) in the ANSWER BOOK.
- 1.2.1 A public prosecutor appears on behalf of the plaintiff in a civil case.
- 1.2.2 A magistrate appears on behalf of the state in a criminal case.
- 1.2.3 The Director of Public Prosecutions is responsible for all criminal cases in his/her provinces, as such all the prosecutors are under his/her control.
- 1.2.4 The Small Claims Court has jurisdiction to hear any criminal case involving less than R12 000, unless both the person suing and the person being sued agree to limit the claim to less than R12 000.
- 1.2.5 The Legal Aid office in South Africa is an autonomous body established by the Legal Aid Act (Act No. 22 of 1969).

1.2.6 According to the Doctrine of National Sovereignty, in every state there must be a body or an institution in which the highest authority rests.

1.2.7 Administrative law refers to the rules valid for the entire country and not a certain part only.

1.2.8 Constitutional law organises and rules over the power of an organisation and the actions of civil servants.

1.2.9 In the case of decentralisation, the lower body may transfer powers to a higher organ.

1.2.10 The principle of legality means that all actions of an administrative organ should be permitted by law.

(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 The function of this court is to concern itself with the care and welfare of the children.

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

1.3.3 This is a completely prescribed, where nothing is left to the own discretion of the administrative body.

1.3.4 This branch of law regulates the relationship between the state and subjects.

1.3.5 The legal functionary appointed by the state to handle the deceased estate and who makes recommendations to the court regarding custody access and guardianship.

(5 × 2) (10)
[50]

TOTAL SECTION A: 50

SECTION B

Answer any FIVE questions in this section.

QUESTION 2

- 2.1 Give a brief description of the principle of legality and indicate the application thereof in administrative law. (9 × 1) (9)
- 2.2 Name the different sources of administrative law and indicate the contribution of each source. (4 × 4) (16)
- 2.3 Distinguish between the *golden rule of interpretation* and *literal interpretation*. (5 × 1) (5)
[30]

QUESTION 3

- 3.1 Briefly explain the fundamental rules for interpretation of law. (4 × 3) (12)
- 3.2 Write explanatory notes on the delegation of administrative powers and give some practical examples. (6 × 3) (18)
[30]

QUESTION 4

- 4.1 Name and discuss various types of 'administrative proceedings'. (4 × 3) (12)
- 4.2 Briefly distinguish between the doctrine of *national sovereignty* and the doctrine of *trilateral division* of powers. (9 × 2) (18)
[30]

QUESTION 5

- 5.1 Distinguish between *objective sense* and *subjective right* and indicate the objects which an individual has rights against. (9 × 2) (18)
- 5.2 Which requirements should a custom comply with, before it can be regarded as a source of law? (6 × 2) (12)
[30]

QUESTION 6

- 6.1 In order to establish whether an administrative body is a legal body of the state, a number of tests must be simultaneously applied.
- Name and briefly explain such tests. (5 × 2) (10)
- 6.2 Discuss the liability of the state due to administrative proceeding. (5 × 2) (10)
- 6.3 Distinguish between *internal relationship* and *independent control relationship*. (3 × 2) (6)
- 6.4 Name FOUR forms of control regarding administrative proceeding. (4 × 1) (4)
- [30]**

QUESTION 7

- 7.1 Briefly explain the following aids in the interpretation of statutes:
- 7.1.1 Appendices (4 × 1) (4)
- 7.1.2 Long title (4 × 1) (4)
- 7.1.3 Preamble (5 × 1) (5)
- 7.2 South Africa courts can only exercise their jurisdiction of appeal if allowed by the law of Parliament or regarding facts or legal questions.
- Explain TWO kinds of statutory appeal and give examples. (4 × 2) (8)
- 7.3 Briefly explain any THREE categories of public law. (3 × 3) (9)
- [30]**

TOTAL SECTION B: 150
GRAND TOTAL: 200