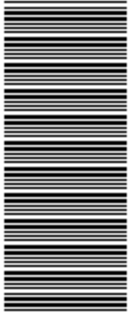


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# higher education & training

Department:  
Higher Education and Training  
**REPUBLIC OF SOUTH AFRICA**

N1360(E)(J3)H  
**JUNE EXAMINATION**

**NATIONAL CERTIFICATE**

**PUBLIC LAW N6**

(13030136)

**3 June 2016 (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

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**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.
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**SECTION A****QUESTION 1**

- 1.1 Choose the correct word(s) from those given in brackets. Write only the word(s) next to the question number (1.1.1–1.1.5) in the ANSWER BOOK.
- 1.1.1 The law of obligation forms part of (private/public) law.
- 1.1.2 The (principle of legality/rule of law) means that all the power of the administration must be authorised by law.
- 1.1.3 In (mandate/deconcentration) certain powers and functions are transferred from the higher to the lower organ.
- 1.1.4 The (plaintiff/defendant) is the person against whom the action is instituted and who may raise a defence against the action.
- 1.1.5 The South African law is based on English law called (judicial review/parliamentary system). (5 × 2) (10)
- 1.2 Complete the following sentences by filling in the missing word(s). Write only the word(s) next to the question number (1.2.1–1.2.9) in the ANSWER BOOK.
- 1.2.1 The ... handles deceased estates in his/her judicial area.
- 1.2.2 The supreme court consists of two divisions, namely the ... and ... division.
- 1.2.3 The function of ... is to reduce the contents of articles themselves and hence to make the law more manageable.
- 1.2.4 If an applicant can prove that a particular action of an authority will be to his/her detriment or will impinge on his/her rights, he/she can apply for a/an ...
- 1.2.5 The judicial authority of the Republic is vested in the ...
- 1.2.6 The ... is the head of the judiciary and exercises responsibility over the establishment and monitoring of norms and standards for the exercise of the judicial functions of all courts.

1.2.7 ... is the customary law of the black communities in South Africa dealing with matters such as the giving of lobolo before marriage.

1.2.8 The ... court adjudicates matters relating to labour disputes between an employer and employee relating to unfair labour practices.

1.2.9 The main function of ... is to protect the interests of the state by acting for all government departments and administrations in civil cases and for officials sued in their official capacity.

(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 person who receives and investigates complaints from the public against government agencies or officials and has the power to recommend corrective action and to issue reports

1.3.2 The unwritten rules which exist in any community by unspoken consent

1.3.3 The section of law that regulates business transactions in commerce and industry

1.3.4 The manner whereupon cases are brought from lower court to higher court for revision purposes

1.3.5 The power, organisation and conduct of government administration regarding the validity of administrative proceedings

(5 × 2) (10)  
[40]

**TOTAL SECTION A: 40**

**SECTION B****QUESTION 2**

- 2.1 State ONE responsibility of each of the following legal functionaries in South Africa:
- 2.1.1 National Director of Public Prosecution
- 2.1.2 Registrar of Deeds
- 2.1.3 Bailiff
- 2.1.4 Registrar of companies
- (4 × 2) (8)
- 2.2 Briefly distinguish between *private law* and *public law* with relevant examples.
- (2 × 2 + 2) (6)
- 2.3 The law of interpretation has stipulations of great value in interpreting the law. Name and explain FIVE of these stipulations.
- (5 × 2) (10)
- 2.4 Explain constitutional law as part of public law.
- (4 × 1) (4)
- 2.5 Write short notes on the application of legislative administrative proceedings within the state organ.
- (6 × 2) (12)
- [40]**

**QUESTION 3**

- 3.1 Explain FOUR objectives in respect of which the law exists with regard to the traditional theory of subjective law.
- (4 × 2) (8)
- 3.2 Common law is a source of administrative law and mainly developed from Roman-Dutch law and British law. Briefly explain common law as the source of administrative law under the following headings:
- 3.2.1 Definition
- (1 × 2) (2)
- 3.2.2 The common-law principles that are derived from Roman-Dutch laws
- (5 × 2) (10)
- 3.2.3 The common-law principles that are derived from English law
- (4 × 2) (8)
- 3.3 Distinguish between a *civil case* and a *criminal case*.
- (2 × 1) (2)
- 3.4 Illustrate how the doctrine of the division of powers is applied in South Africa.
- (5 × 2) (10)
- [40]**

**QUESTION 4**

- 4.1 The state can be held liable for a delict or an unlawful act against a citizen based on State Liability Act 20 of 1957 and the Amendment Act 14 of 2011.  
Briefly explain the articles of law of state liability. (8)
- 4.2 Briefly explain what is meant by the principle of legality, with a relevant example. (4 × 2) (8)
- 4.3 Identify the types of legal relationships and briefly explain EACH one by giving examples of each type of relationship. (6 × 1) (6)
- 4.4 The South African government uses both the doctrine of sovereignty and the rule of law.  
Show how differently these doctrines are applied in South Africa. (2 × 2) (4)
- 4.5 Briefly explain *custom* as a source of South African Constitutional Law. (4 × 2) (8)
- 4.6 Discuss mandate as a category of delegation of authority and give relevant examples. (3 × 2) (6)
- [40]**

**QUESTION 5**

- 5.1 Differentiate between *mechanical administrative proceeding* and *limited discretion*. (2 × 2) (4)
- 5.2 Show, by means of explanations, when a court will issue a declaration of rights as a form of judicial control. (6)
- 5.3 List FOUR internal aids which can be used to assist with the interpretation of statutes. (4)
- 5.4 Briefly distinguish between the *golden rule* of interpretation and the *literal rule* of interpretation. (3 × 2) (6)
- 5.5 Distinguish between the *internal* and *independent* control relationships in government bodies, with relevant examples. (10 × 1) (10)
- 5.6 State the fundamental rules with regard to the interpretation of laws. (5 × 2) (10)
- [40]**

**TOTAL SECTION B: 160**  
**GRAND TOTAL: 200**