



higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

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NATIONAL CERTIFICATE

PUBLIC LAW N6

(13030136)

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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.
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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 an administrative-law relationship, one of the parties (subjects) must be a government.
- 1.1.2 The rights and privileges of private individuals are taken away when they enter into an administrative-law relationship (contract) with a government organ.
- 1.1.3 When the interpreter is interpreting in a court of law, the interpreter may step outside the wording of the law.
- 1.1.4 Review or revision is used when an administrative action is objected to.
- 1.1.5 Writings of modern authors are one of the sources of administrative law.
- 1.1.6 In an independent control relationship, one government organ has the authority to approve the actions of the other authority.
- 1.1.7 Delegation can be defined as the transfer of power from a higher person or body to a lower person.
- 1.1.8 A legal subject can be defined as anyone or anything that can be the bearer of rights and duties.
- 1.1.9 Common law is the rules that are not valid for the entire country.
- 1.1.10 Legislation is a group of legal rules that bind the whole society.

(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 (1.2.1–1.2.6) in the ANSWER BOOK.
- 1.2.1 The person who institutes the claim is called the (a) ..., and the person against whom the action is instituted is called the (b) ...
(2 × 2) (4)
- 1.2.2 The (a) ... of Appeal has jurisdiction within the whole of South Africa and is based in (b) ...
(2 × 2) (4)
- 1.2.3 The ... courts deal with the customary issues in terms of customary law. (2)
- 1.2.4 Law of succession deals with a person's ... after his/her death. (2)
- 1.2.5 A police officer acts as ... and must maintain order in court and ensure security. (2)
- 1.2.6 Sovereignty means that in every state there is a ... that is not subject to any other authority. (2)
- 1.3 Explain the doctrine of the division of powers as applied in South Africa. (9)
- 1.4 According to the law of state liability, the state can be held liable for a delict or unlawful act of a citizen.
State FOUR conditions regarding the institution of a claim in the law of state liability. (4 × 2) (8)
- 1.5 The principle of legality states that 'nobody may be wronged on purpose in the execution of administrative action'.
State FIVE things that an administrative body must follow when applying the principle of legality. (5 × 2) (10)
- [63]**

TOTAL SECTION A: 63

SECTION B**QUESTION 2**

- 2.1 Explain what the term *mandamus* means. (3)
- 2.2 Mention THREE functions of the NDPP (National Director of Public Prosecution). (3 × 2) (6)
- 2.3 Differentiate between the *golden rule of interpretation* and *literal interpretation of laws*. (4)
- 2.4 One of the fundamental rules of interpretation states that 'the interpreter may not step outside the wording of the law'. Explain this fundamental rule. (10)
- 2.5 List FOUR examples of multilateral administrative proceedings. (4 × 2) (8)
- 2.6 Identify the tests that Wiechers recommends to determine whether a certain proceeding is a judicial proceeding. (12)
[43]

QUESTION 3

- 3.1 Distinguish between formal and material tests. (16)
- 3.2 Mrs X is a married woman living with her husband (Mr Y) and children. She has been married for six years. Mr Y is addicted to alcohol and drugs. He drinks and uses drugs on a daily basis. Every day when he arrives home, he abuses his wife and kids by beating them for no reason. Mrs X is tired of Mr Y's actions.
- 3.2.1 Mrs X can apply for a court interdict to stop her abusive husband from abusing her. What does the term *interdict* mean? (3)
- 3.2.2 Give TWO types of interdict. (2)
- 3.2.3 Describe each interdict you have mentioned in QUESTION 3.2.2. (4)
- 3.3 Identify SIX internal aids of interpretation. (6)
[27]

QUESTION 4

- 4.1 List the THREE types of delegation and define each of them. (12)
- 4.2 State FOUR divisions of public law. (4)
- 4.3 Explain what is meant by foreign law. (2)
- 4.4 State FIVE aspects that are covered by foreign law. (5)
- 4.5 Define the following terms:
- 4.5.1 Real rights
- 4.5.2 Intellectual property (2 × 2) (4)
- [27]**

QUESTION 5

- 5.1 Customary law will not be recognised as legal rule by a court of law, unless it fulfils certain conditions. List those conditions. (8)
- 5.2 Discuss the Constitution as a source of administrative law. (12)
- 5.3 Explain the composition of the constitutional court. (6)
- 5.4 List THREE functions of the registrar of the high court. (6)
- 5.5 What can the public protector not investigate? (6)
- 5.6 Who is the current public protector? (2)
- [40]**

TOTAL SECTION B: 137
GRAND TOTAL: 200