



**higher education
& training**

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

PUBLIC LAW N6

30 MAY 2019

This marking guideline consists of 7 pages.

SECTION A**QUESTION 1**

1.1	1.1.1	True		
	1.1.2	False		
	1.1.3	True		
	1.1.4	True		
	1.1.5	True		
	1.1.6	False		
	1.1.7	False		
	1.1.8	False		
	1.1.9	False		
	1.1.10	True		
			(10 × 2)	(20)
1.2	1.2.1	equal		(2)
	1.2.2	(a) law		
		(b) common		(4)
	1.2.3	public		(2)
	1.2.4	African		(2)
	1.2.5	meaning		(2)
	1.2.6	things		(2)
	1.2.7	Property		(2)
	1.2.8	(a) acts		
		(c) punishment		(4)
	1.2.9	master		(2)
	1.2.10	Equality		(2)
1.3	1.3.1	Deals with the relationship between persons with respect to a person's personality, such as a good name, honour and reputation.		
	1.3.2	Laid down by an organ of state that has the power to do so.		
	1.3.3	Principle that no one is above the law.		
			(3 × 2)	(6)
				[50]
			TOTAL SECTION A:	50

SECTION B**QUESTION 2**

- 2.1
- The Constitution
 - The source of the article
 - Preceding discussions/deliberations at the acceptance of the law
 - Peripheral or surrounding circumstances
 - Dictionaries and linguistic evidence
 - Explanatory memoranda, examples and footnotes
 - Earlier and later laws
 - Ingrained customs interpretations
 - Vocabulary/dictionaries
 - Textbooks
- (Any 8 × 1) (8)
- 2.2
- Any claim against the state. If the claim is against an official of the state and there is ground for the claim, it should be tried in a court of law.
 - The claim can arise from any contract lawfully entered into on behalf of the state, which was broken.
 - Any unlawful act or wrongdoing by an official of the state when acting in his/her official capacity.
 - A lawsuit on the basis of the above must be instituted against the executive authority of the state institutions.
 - The claim against the state must be for an amount and cannot be against a defendant or government property.
 - The claim will then be settled or not according to the verdict of the court.
 - If the claim is awarded by the court, it must be paid within 30 days of the date of the order or in the period agreed upon by the two parties.
- (Any 4 × 2) (8)
- 2.3
- In 1803, the Dutch rule in the Cape came to an end with the British occupation.
 - In 1826, the English government instructed Bigge to examine the legal system used in the Cape Colony.
 - He recommended that the British law replace the Roman-Dutch law.
 - The old council of justice had to be replaced by the Supreme Court with British judges.
 - This attempt was fruitless and in 1934, it was ruled that Roman Dutch law was the valid law of the colony.
 - However, Roman Dutch law was modified with the British law.
 - The British law contributed to mercantile law, company law, insurance law and civil procedure law.
 - English textbooks were made available and judges studied British law.
- (Any 5 × 2) (10)

- 2.4
- The interpreter must interpret the law literally.
 - Words must be understood to have their ordinary meaning.
 - Common words must be interpreted in their common usage.
 - The interpreter may not step outside the wording of the law/no addition or subtraction may be made.
 - Each word must have a meaning. Every word is important. (10)
- 2.5
- Statutory appeal from a lower court to the High Court
 - Statutory appeal from the High Court to the Supreme Court of Appeal
 - Appeal by a statutory body, for example, appeal to a liquor licence board if a licence was not awarded. (3 × 2) (6)
- 2.6
- Private law relationships are formed when individuals enter into a contract/agreement and are, therefore, involved in a legal relationship. An administrative law relationship can take place between a government body and an individual/company or between government bodies. (2 × 4) (8)
- [50]**

QUESTION 3

- 3.1
- Subjective rights (SR)
- Relationship between a legal subject and a legal object (person and object)
 - Four types of subjective rights to an object: Real right to own an object (car), personal right to receive the object if paid, intellectual property right, for example, copyright.
 - Relationship between two persons with regards to one another's property.
 - SR provides a person with powers to the object.
 - SR have limitations – no cattle on a plot in the city.
 - SR are protected through legal procedures and allow legal action if rights are violated. (Any 5 × 2)
- Objective sense (OS)
- All legal rules in a country.
 - The rules that govern our daily lives.
 - Includes statutory and common law.
 - Regulates the relationship between persons.
 - Person is a part of society with own interests, which might cause conflict between persons.
 - OS maintains peace and order in a relationship.
 - Rules governing our daily lives, for example, speed limits.
 - OS ensures that persons respect one another's property, abide by agreement actions, make good damage caused by unlawful actions, respect other's intellectual property, and respect each other's personalities and privacy. (Any 5 × 2) (Any 2 × 10) (20)

- 3.2
- One of the legal subjects must be a government body
 - The government body must be invested with government authority (2 × 2) (4)
- 3.3
- Constitutional law
 - Administrative law
 - Criminal law
 - Procedural law (4)
- 3.4
- A state may not execute its powers arbitrarily.
 - Individual liberty should be upheld.
 - Everybody in a state is equal before the law.
 - No person may be punished if a law of a state was not broken.
 - A breach must be established in a court of law.
 - Nobody is above the law and everybody is ruled by the same law and through the same courts.
 - The people are protected against arbitrary governance, dictatorship and mob rule.
 - Aims to ensure a stable government.
 - Aims for economic and social development of society (Any 5 × 2) (10)
- 3.5
- Collective labour agreements
 - Contract with officials
 - City and town planning schemes
 - Agreement for the supply of services (4 × 2) (8)
- 3.6
- Prohibitory interdict is an interdict which stops a person from committing a specific wrongful act
- Mandatory interdict directs a person to do something he or she is legally obliged to do. (2 × 2) (4)
- [50]**

QUESTION 4

- 4.1
- Registers immovable property in the name of the new owner
 - Registers mortgages
 - Cedes registered mortgages
 - Registers lease holds or long leases and cancellations
 - Antenuptial contracts
 - Deeds of lease and mineral rights awarded by government
 - Personal or land servitudes
 - Subletting and notarial deeds
 - General plans of land and plots
 - Notarial prospecting contracts (Any 5 × 2) (10)
- 4.2
- Simplest form of delegation
 - Higher organisation decides and instructs the lower organisation to do something
 - Higher organisation stays responsible as the instruction was carried out in its name (3 × 2) (6)
- 4.3
- 4.3.1 No (1)
- 4.3.2 Mr Clinton is not a state official and the Public Protector is not allowed to investigate private officials. (2)
- 4.3.3
- If officials are suspected of improper conduct, including maladministration and abuse of power
 - If state funds were distributed illegally
 - If somebody was enriched or advantaged illegally and improperly, directly or indirectly
 - If a matter has been reported (4 × 2) (8)
- 4.3.4
- Court decisions by judges and magistrates
 - Private acts by individuals and private companies
 - Professionals who are not employed by the state (3 × 2) (6)
- 4.3.5 Nothing/Free of charge. (2)
- 4.3.6 7 years (2)

- 4.4
- Constitution
 - Legislation
 - Judicial review/Legal verdicts
 - Common law
 - Customary law/Administrative practices
 - Indigenous law
 - Writings of modern authors
- (7)
- 4.5
- A Attorneys represent clients in the lower courts (regional and district courts)
- B Advocates represent clients in the high courts.
- C Family advocates represent clients in the children's court as well as assisting with reports regarding custody of the children in divorce matters.
- (3 × 2) (6)
- [50]**
- TOTAL SECTION B: 150**
- GRAND TOTAL: 200**