



**higher education
& training**

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

PUBLIC LAW N6

28 May 2021

This marking guideline consists of 6 pages.

SECTION A**QUESTION 1**

- 1.1 True
- 1.2 True
- 1.3 True
- 1.4 True
- 1.5 True
- 1.6 False
- 1.7 False
- 1.8 False
- 1.9 True
- 1.10 True

(10 × 1) **[10]****QUESTION 2**

- Maintenance court: ✓ deals with maintenance complaints if persons such as parents, who are legally liable to pay maintenance for their children, are not paying ✓✓
- Divorce court: ✓ hears divorce matters ✓✓
- Regional court: ✓ tries any criminal offence, such as murder or rape, but not high treason ✓✓
- Equality court: ✓ deals with complaints about unfair discrimination, hate speech or harassment ✓✓
- Sexual offences court: ✓ gives necessary care, respect and support at the court ✓✓

(5 × 3) **[15]****QUESTION 3**

- 3.1 (a) higher
(b) autonomous (2 × 2) (4)
- 3.2 unlawful (2)
- 3.3 government (2)
- 3.4 interdict (2)
- 3.5 wording (2)
- 3.6 (a) state
(b) subjects (2 × 2) (4)
- 3.7 unwritten (2)
- 3.8 (a) movable
(b) immovable (2 × 2) (4)
- 3.9 black (2)
- 3.10 (a) commerce
(b) trade (2 × 2) (4)

[28]**TOTAL SECTION A: 53**

SECTION B**QUESTION 4**

- 4.1 4.1.1 Relationship between a government body and an individual/
company or between government bodies
- 4.1.2 When more than one subject is involved in an individual relationship
of which one will be a government person or body
- 4.1.3 Law amongst the black population in South Africa or unwritten
customary law
- 4.1.4 Deals with relationship between persons with respect to a person's
personality, such as good name, honour and privacy
- 4.1.5 Controls the administration of the state in general
- 4.1.6 Determines the procedure to be followed in a court of law
(6 × 2) (12)
- 4.2 • Constitution
• Source of article
• Discussions/Deliberations at the acceptance of law
• Peripheral/Surrounding circumstances
• Dictionaries and linguistic evidence
• Explanatory memoranda, examples and footnotes
• Earlier and later laws
• Ingrained customs interpretations
• Vocabulary/Dictionaries
• Textbooks
(10)
- 4.3 • When there are gaps in the law
• When the law no longer satisfies the needs of the community
• When there are defects or loopholes in existing legislation
(3 × 2) (6)
- 4.4 • Relationship between legal subject and legal object
• Relationship between two persons to respect one another's property
• Provides person with powers to the object
• Limitations
• Protected through legal procedure and allows legal actions if rights are
violated
• Duty to respect SR of other people
(6 × 2) (12)
- 4.5 In mechanical administrative proceedings the administrative organ has no
discretion. In limited discretion the administrative proceedings must be
executed within the limits of narrowly prescribed discretion.
(2 + 2) (4)

[44]

QUESTION 5

- 5.1
- A person or body holds the power and authorises another person or body to perform a function on their behalf.
 - The delegator stays responsible for the actions of the delegate.
 - Power is delegated from a higher to a lower body. (3 × 2) (6)
- 5.2
- 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 (nonjudicial appeal) (3 × 2) (6)
- 5.3
- Was the body instituted by government?
 - Were the authorities and duties of the body established by legislation?
 - Is the body slotted into a hierarchy of authority?
 - Is there a higher government authority that influences orders given to the lower organ? (4 × 2) (8)
- 5.4
- Claims exceeding R1 500
 - Claims against the state
 - Claims based on the cession or transfer of rights
 - Claims for damages for malicious prosecution, wrongful imprisonment or wrongful arrest
 - Claims for seduction and breach of promise to marry
 - Claims for the dissolution of marriage
 - Claims concerning the validity of a will
 - Claims concerning the status of person in respect of their mental capacity (8 × 2) (16)
- 5.5
- 5.5.1 Yes, ✓ because he was shot or injured by a public servant and the sergeant has committed an unlawful act within the scope of his work. ✓✓ (3)
- 5.5.2 The state can be held liable regarding the action or neglect of an official of the state. (2)
- 5.5.3
- Any claim against the state, if the claim is against the official of the state and there is ground for the claim, should be tried in a court of law.
 - The claim can arise from any contract lawfully entered into on behalf of the state that was breached.
 - Any unlawful act or wrongdoing by an official of the state when acting in his/her capacity can serve as grounds for a claim.
 - On this basis a lawsuit must be instituted against the executive authority of the state institutions.
 - A claim against the state must be for an amount of money and cannot be against a defendant or government property.
 - The claim will 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 6 × 2) (12)

[53]

QUESTION 6

- 6.1
- Constitution
 - Legislation/Statutes
 - Legal verdicts/precedents
 - Common law
 - Customs/Administrative practices
 - Indigenous law
 - Works of modern authors
- (Any 6 × 1) (6)
- 6.2
- The state may not execute its powers arbitrarily.
 - Individual liberty should be upheld.
 - Everybody in the state is equal before the law.
 - No person may be punished if the law of the state was not broken.
 - The breach of law 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 constitution protects the rights and property of individuals and corporations.
 - People are protected against arbitrary governance, dictatorship and mob rule.
 - It aims to ensure a stable government.
 - It aims for economic and social development of society.
- (Any 7 × 2) (14)
- 6.3
- Registration of immovable property
 - Registration of mortgage bonds
 - Rescission of registered mortgage bonds
 - Registration of personal or land servitudes
 - Leaseholds or improvements, renewals or cancellations
 - Deeds of lease and mineral rights awarded by the government
 - Subletting and notarial deeds
 - Copies of natural prospering contracts
 - Copies of antenuptial contracts
 - Copies of general plans of land and plots signed by land surveyor
- (Any 5 × 2) (10)
- 6.4
- If there is improper conduct by officials, including maladministration and abuse of power
 - If state funds were distributed illegally
 - If somebody was illegally and improperly, directly or indirectly enriched or advantaged
- (3 × 2) (6)
- 6.5
- Government at any level
 - State-owned enterprises
 - Any person performing public functions
 - Statutory councils
- (4 × 2) (8)

6.6	6.6.1	Any court		
	6.6.2	High court		
	6.6.3	Magistrate's/Family/Divorce court		
			(3 × 2)	(6)
				[50]
			TOTAL SECTION B:	145
			GRAND TOTAL:	200