



higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE

PUBLIC LAW N6

(13030136)

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This question paper consists of 6 pages.

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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. Start each question on a new page.
 5. Use only a black or blue pen.
 6. Write neatly and legibly.
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SECTION A**QUESTION 1**

Indicate whether the following statements are TRUE or FALSE by writing only 'True' or 'False' next to the question number (1.1–1.10) in the ANSWER BOOK.


- 1.1 Headings may be used to determine the doubtful or ambiguous parts of the content of a particular chapter or section. 
- 1.2 Peripheral circumstances are an example of external aids of interpretation of law.
- 1.3 Objective sense sees to it that persons respect one another's property.
- 1.4 Aspects of personality are aspects of a person's character such as honour, dignity and a good name.
- 1.5 A magistrate's court is a lower court of first instance that deals with less serious criminal and civil cases. 
- 1.6 Messengers of the court are responsible for maintaining order in the court.
- 1.7 According to the rule of law, people are not protected against arbitrary governance, dictatorship or mob rule.
- 1.8 PAJA (Promotion of Administrative Justice Act) does not require reasons for administrative action in certain circumstances.
- 1.9 Judicial review means higher courts may review cases from lower courts and may change the verdicts. 
- 1.10 In an administrative law relationship one of the parties must be a government body.

(10 × 1)

[10]

QUESTION 2



Identify FIVE courts from the list below that fall under the jurisdiction of lower courts and give ONE function of each:

- Labour court of appeal
- Maintenance court
- Income tax court 
- Divorce court
- Land claims court
- Regional court
- Labour court
- Equality court
- Supreme court of appeal

(5 × 3) [15]

QUESTION 3



Complete the following sentences by writing only the missing word or words next to the question number (3.1–3.10) in the ANSWER BOOK.

- 3.1 Decentralisation is the transfer of powers and functions from a/an (a) ... person or organ to a/an (b) ... person or organ. (2 × 2) (4)
- 3.2 A court or tribunal has the right to judicially review administrative action if the action is otherwise unconstitutional or ...  (2)
- 3.3 Multilateral administrative proceedings are conducted when more than one subject is involved in an individual relationship of which one will be a/an ... body/person. (2)
- 3.4 A person can apply for a/an ... when he/she wants to stop a wrongful act. (2)
- 3.5 An interpreter may not step outside the ... of the law when interpreting. (2)
- 3.6 Public law regulates the relationship between the (a) ... and its (b) ... and between the state or other states. (2 × 2) (4)
- 3.7 Customary law is ... law.  (2)
- 3.8 Real rights are rights with respect to (a) ... and (b) ... property. (2 × 2) (4)
- 3.9 Indigenous law is the customary law of the ... communities. (2)
- 3.10 Mercantile law deals with the (a) ... or (b) ... industry. (2 × 2) (4)


[28]

TOTAL SECTION A: 53

SECTION B**QUESTION 4**

- 4.1 Define each of the following terms:
- 4.1.1 Administrative law relationship 
- 4.1.2 Multilateral administrative proceedings
- 4.1.3 Indigenous law
- 4.1.4 Law of personality
- 4.1.5 Administrative law
- 4.1.6 Procedural law (6 × 2) (12)
- 4.2 Briefly explain how textbooks, as one of the external aids of interpretation, can assist in the interpretation of law. (10)
- 4.3 When does parliament pass or create legislation? (3 × 2) (6)
- 4.4 Briefly explain *subjective rights* (SR).  (6 × 2) (12)
- 4.5 Distinguish between *mechanical administrative proceedings* and *limited discretion*. (2 + 2) (4)
- [44]**


QUESTION 5

- 5.1 Explain the term *delegation*. (3 × 2) (6)
- 5.2 State THREE forms of judicial review. (3 × 2) (6)
- 5.3 In order to establish if a body is an organ of the state/government body, two tests (formal and material) must be applied simultaneously.
- State FOUR questions asked in a formal test.  (4 × 2) (8)
- 5.4 Give EIGHT functions of the supreme court of appeal. (8 × 2) (16)

5.5

Sergeant Paul is a police official stationed at Jiame police station and there is a TVET college under the jurisdiction of the station. One day students engaged in a 'fees must fall' strike and damaged buildings on the college grounds. Police officers were called to calm down the situation and sergeant Paul was among the police officials who went to the college. When students saw police officials, they started throwing stones and other objects to the police officials who retaliated by shooting rubber bullets at them. Sergeant Paul, however, used real bullets and shot Mr B (passer-by), who was not part of the strike, in the ankle.

5.5.1 Mr B wants to institute a civil claim case.


Is this the right decision? Substantiate the answer.  (3)

5.5.2 In reference to the answer given to QUESTION 5.5.1, when can the state be held liable for the action of a citizen? (2)

5.5.3 List SIX articles regarding the institution of a civil claim. (6 × 2) (12) **[53]****QUESTION 6**

6.1 List SIX sources of South African administrative law. (6)

6.2 Explain the doctrine of sovereignty. (7 × 2) (14)

6.3 Give SIX functions of the deeds office (registrar of deeds).  (5 × 2) (10)

6.4 Under which circumstances or on which conditions can the public protector investigate and take remedial action. (3 × 2) (6)

6.5 Who can the public protector investigate? (4 × 2) (8)

6.6 State where each of the following legal representatives represents their clients:

6.6.1 Attorney

6.6.2 Advocate 

6.6.3 Family advocate (3 × 2) (6)

[50]

TOTAL SECTION B: 147
GRAND TOTAL: 200