



**higher education
& training**

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

PUBLIC LAW N6

10 September 2020

This marking guideline consists of 6 pages.

SECTION A**QUESTION 1**

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

(11 × 1) [11]

QUESTION 2

- 2.1 F
- 2.2 D
- 2.3 H
- 2.4 A
- 2.5 B
- 2.6 G
- 2.7 C
- 2.8 E
- 2.9 J
- 2.10 I

(10 × 2) [20]

QUESTION 3

- 3.1 Lower (2)
- 3.2 Unfair (2)
- 3.3 (a) Employers✓✓
(b) Employees✓✓ (4)
- 3.4 High (2)
- 3.5 Ordinary (2)
- 3.6 Subjects (2)
- 3.7 (a) International✓✓
(b) Nations✓✓ (4)

3.8	(a) Mental ✓✓ (b) Human ✓✓	(4)
3.9	(a) Intention ✓✓ (b) Meaning ✓✓	(4)
		[26]
TOTAL SECTION A:		57

SECTION B**QUESTION 4**

4.1	4.1.1	Private-law relationship – created between two individuals or between an individual and a company or two or more companies.	
	4.1.2	Judicial review – when administrative proceedings have been declared invalid or contravenes the constitution or other legislation, the actions of the government body/organ will be subject to revision by judicial authority.	
	4.1.3	Civil liability – the state/government is held responsible for a wrongful act that was committed by an official of the state	
	4.1.4	Proclamations – the act of saying something in public, an official statement or announcement made by a person in power or by government	
	4.1.5	Law of commitment – regulates the relationship between one person (creditor) who has a right against another person (debtor) for performance and this person (debtor) has a duty to perform.	
	4.1.6	Performance – human conduct called the law of demand	(6 × 2) (12)
4.2		<ul style="list-style-type: none"> • Everyone has the right to administrative action that is lawful, reasonable and procedurally fair. • Everyone whose rights have been adversely affected by administrative action has the right to receive written reasons for this action. • National legislation must be enacted to give effect to these rights. 	(Any relevant 3 × 2) (6)

- 4.3
- As the result of an appeal from a judgement of the high court or the supreme court of appeal
 - As a direct application to the court
 - As the result of the high court or the supreme court of appeal declaring a piece of legislation invalid that requires confirmation by the constitutional court
 - When Parliament requests the constitutional court to review a bill
- (4 × 2) (8)
- 4.4 Ronald Lamola (2 × 1) (2)
- 4.5
- Hears appeals from criminal and civil cases
 - Maintains an appeal
 - Imposes any sentence and makes any order on legal points
 - Delivers verdicts on what should have happened during a court case
 - Decides appeals on constitutional matters, except matters over which the constitutional court has exclusive jurisdiction
 - Declares an act of parliament, a provincial act or the conduct of the South African government unconstitutional
- (6 × 2) (12)
[40]

QUESTION 5

- 5.1
- Portrays the true meaning of the legislator
 - Identifies the objects of that Act
 - Contains a program of action
 - Provides a declaration of intent with regard to the broad principles contained in the particular Act or statute
- (4 × 2) (8)
- 5.2
- Indigenous law contains unwritten customs that are conveyed orally from generation to generation.
 - It differs from tribe to tribe and from one territorial basis to another.
 - It mainly regulates the relationship between individuals.
 - It is a communal or group-oriented system that contrasts with Western law.
- (4 × 2) (8)
- 5.3
- All the legal rules in the country
 - Includes statutory and common law
 - Regulates the relationship between persons
 - A person is part of society with his/her own interests that might cause conflict between persons.
 - OS maintains order and peace in a relationship.
 - Rules governing our daily lives
- (6 × 2) (12)

- 5.4
- Legislative administrative proceedings
 - Judicial administrative proceedings
 - Purely administrative proceedings
 - Multilateral administrative proceedings
 - Unilateral administrative proceedings (5 × 2) (10)
- 5.5 Internal control relationship
- Two organs in the same department oppose each other.✓✓
 - This happens only if higher organ gave order/instruction to lower organ.✓✓
 - Can only exist if higher organ has authority to change actions of lower organ. (Any two of the above)
- Independent control relationship
- One government organ approves actions of another organ.✓✓
 - The two organs function independently and function under their own name.✓✓ (4 × 2) (8)
- 5.6
- An order declaring the administrator's decision invalid
 - Ordering the administrator to reconsider the decision
 - Replacing the decision with the court's own decision
 - Ordering the government to pay damages to the affected person (4 × 2) (8)
- [54]**

QUESTION 6

- 6.1 Formal test
- Did government institute the body?✓✓
 - Did legislation establish the authority and duties of the body?✓✓
 - Does the body slot into the hierarchy of authority of government?✓✓
 - Is there a higher government authority that influences orders given to lower organs?✓✓
- Material test
- What is the nature of the organ's activities?✓✓
 - Does the organ provide a service to the public?✓✓
 - Is the organ profit oriented?✓✓
 - Does the organ have government authority?✓✓ (8 × 2) (16)
- 6.2
- Parliament
 - Provinces
 - Proclamations
 - Regulations (4 × 1) (4)

- 6.3
- Administration of deceased estates
 - Administration of insolvent persons in accordance with statutory provisions
 - Protection of the interest of minors and legally incapacitated persons
 - Protection and administration of minors' and absent heirs' funds
 - Supervision and administration of companies and close corporations in accordance with statutory provisions
 - Determination and assessment of estate duties in terms of the Estate Duty Act
 - Supervision of trusts in terms of the Trust Property Control Act.
 - Processing enquiries of executors, attorneys, beneficiaries and other interested parties
 - Appointment of impartial and capable persons as executors, trustees, curators and liquidators (Any relevant 6 × 2) (12)
- 6.4
- The court does not hear evidence or question witnesses.
 - It considers evidence heard in the original court that heard the matter.
 - It works largely with written arguments that are presented to the court.
 - The judges' work consists of analysing documents and preparing judgements and each judge has two full-time reseachers.
 - Each judge sitting in a case must indicate his or her decision and the rulling is then determined by majority vote.
 - The reasons for the decision are published in a written judgement.
 - Once all evidence has been considered, the judges meet to discuss the possible outcome of the case. (7 × 2) (14)
- 6.5
- It is a set of rules or regulations that facilitates human interaction.
 - It ensures order in society and ensures that the law is applied consistently.
 - The rules/laws are applied or interpreted by institutions of the state with assistance from the police, traffic officers, et cetera. (3 × 1) (3)
- [49]**

TOTAL SECTION B: 143
GRAND TOTAL: 200