Downloaded from www.studypapers.co.za

201311H228

higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

N1240(E)(N22)H
NOVEMBER EXAMINATION

NATIONAL CERTIFICATE

PUBLIC LAW N6

(13030136)

22 November 2013 (X-Paper)
09:00–12:00

This question paper consists of 7 pages.

BUSINESS STUDIES

Copyright reserved

Downloaded from www.studypapers.co.za

Downloaded from www.studypapers.co.za

DEPARTMENT OF HIGHER EDUCATION AND TRAINING
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE

PUBLIC LAW

TIME: 3 HOURS

MARKS: 100

NOTE: If you answer more than the required number of questions, only the required number of questions will be marked. All work you do not want to be marked must be clearly crossed out.

INSTRUCTIONS AND INFORMATION

1. SECTION A is COMPULSORY.
2. Answer any FIVE questions in SECTION B.
3. Read ALL the questions carefully.
4. Number the answers according to the numbering system used in this question paper.
5. Write neatly and legibly.

BUSINESS STUDIES

Downloaded from www.studypapers.co.za

Downloaded from www.studypapers.co.za

SECTION A

QUESTION 1

1.1 State which court has jurisdiction to try the following cases: Write only the answer next to the question number (1.1.1–1.1.5) in the ANSWERBOOK.

1.1.1 John bought an entertainment system from ABC furnishers to the value of R4000.00. After a week he realises that the DVD has a defect and wants to claim his money back.

1.1.2 After a fight in a bar, it is established that Sydney provoked the fight. He is charged with assault with the intention to do grievous bodily harm.

1.1.3 Clide wishes to appeal against the decision of the high court (Supreme Court) after he was found guilty of first-degree murder.

1.1.4 Jub-Jub was found guilty of reckless driving and driving under the influence of alcohol. The case was heard at the Protea Magistrate court and wishes to appeal against the decision of the magistrate.

1.1.5 Jan and Vitoria have been married for twenty years in community of property. Vitoria caught Jan and Sophia in a compromising situation and she is filing for a divorce.

(5 x 2) (10)

1.2 Give ONE word for the following descriptions. Write only the answer next to the corresponding number (1.2.1–1.2.5) in the ANSWER BOOK.

1.2.1 These rules are valid for the entire country and not a part only.

1.2.2 The police official who maintains order in court and display exhibits.

1.2.3 This phenomenon is directed at the fact that an administrative organ is compelled to perform a statutory duty.

1.2.4 This branch of law regulates the transactions of commerce and industry.

1.2.5 The manner in which cases are reviewed from the lower to the high court.

(5 x 2) (10)

BUSINESS STUDIES

Copyright reserved

Downloaded from www.studypapers.co.za

Downloaded from www.studypapers.co.za

1.3 Choose the word(s) from those given in brackets. Write only the word(s) next to the question number (1.3.1–1.3.11) in the ANSWER BOOK.

1.3.1 Judges are appointed from the ranks of (advocates/magistrate) that have served the period of learnership.

1.3.2 A state is defined as a (unit/legal person) which consist of people living in it.

1.3.3 According to the doctrine of (division of powers/national sovereignty) there must be trilateral division of powers.

1.3.4 The (clerk of the court/sheriff) is responsible for issuing procedural documents in the lower court.

1.3.5 The major function of the (state attorney/public protector) is to protect the interest of the state by acting for all government departments and administration in civil cases.

1.3.6 The (constitutional court/supreme court) hears appeals from all the divisions of the courts.

1.3.7 (District court/Circuit court) are part of the high court. They sit at least twice a year moving around to serve more rural areas.

1.3.8 (Private law/ Public law) regulates the relationship between private entities and private individuals.

1.3.9 (Regional Magistrate Court/District Court) can sentence a person who has been found guilty of serious criminal offence that includes murder or rape and imprison the accused for life.

1.3.10 The presiding officer in the small claims court is the (magistrate/commissioner).

1.3.11 The (public protector/commission) investigate cases of maladministration and corruption on behalf of the state and determines if a case should be prosecuted or not.

(11 x 2) (22)

BUSINESS STUDIES

Copyright reserved

Downloaded from www.studypapers.co.za

Downloaded from www.studypapers.co.za

1.4 Complete the following sentences by filling in the missing word(s). Write only the word(s) next to the question number (1.4.1–1.4.4) in the ANSWER BOOK.

1.4.1 In South Africa the judicial powers is vested in the …

1.4.2 … seize the property of the sentenced debtor.

1.4.3 The unwritten laws which exist in any community by unspoken consent are known as …

1.4.4 … the higher organ instruct lower organ to act on their behalf and can withdraw authority at any time.

(4 x 2) (8)
[50]

TOTAL SECTION A: 50

SECTION B

Answer any FIVE questions in this section.

QUESTION 2

2.1 Constitutional law orders the wielding and division of government authority in a state.

Explain this statement. (10 x 1) (10)

2.2 Traditional *subjective* laws are distinguished by means of objects.

Briefly explain and give examples of these objects. (5 x 2) (10)

2.3 Name the various sources of South African constitutional law on which the court will base their findings. (5 x 1) (5)

2.4 What is meant by an administrative law relationship? (5 x 1) (5)
[30]

QUESTION 3

3.1 Describe with the aid of examples, the internal relationship and the independent control relationship. (7 x 1) (7)

3.2 Discuss the test which Wiechers recommends to determine if a proceeding is a judicial proceeding. (8 x 1) (8)

BUSINESS STUDIES

Copyright reserved

Downloaded from www.studypapers.co.za

Downloaded from www.studypapers.co.za

3.3 The law stipulates specific rules according to which words and sentences must be interpreted to establish the judicial meaning of words.

State and explain the fundamental rules for interpretation of law. (15 x 1) (15)

[30]

QUESTION 4

4.1 Give a brief description of the principle of legality and indicate the application thereof in administrative law. (8 x 2) (16)

4.2 In order to establish whether an administrative legal government body is a body of the State, a number of tests must be applied simultaneously.

Name and explain these tests. (5 x 2) (10)

4.3 Name and discuss TWO types of statutory appeals that exist. (4 x 1) (4)

[30]

QUESTION 5

5.1 Write explanatory notes on the delegation of administrative powers and give examples. (5 x 3) (15)

5.2 Discuss the liability of the state due to administrative proceedings (5 x 2) (10)

5.3 List five sub-sections of public law. (5 x 1) (5)

[30]

QUESTION 6

6.1 Briefly explain the following aids in interpretation of the law:

6.1.1 The preface

6.1.2 The long title

6.1.3 Appendices

(3 x 4) (12)

6.2 The rule of law is an important principle which is fully accepted in constitutional law.

Briefly explain this statement. (6 x 2) (12)

6.3 Explain the doctrine of sovereignty. (6 x 1) (6)

[30]

BUSINESS STUDIES

Copyright reserved

Downloaded from www.studypapers.co.za

Downloaded from www.studypapers.co.za

QUESTION 7

7.1 Explain the following sources of administrative law:

7.1.1 Legal verdicts/Judicature

7.1.2 Common law

7.1.3 Administrative practices

(3 x 4) (12)

7.2 Briefly explain the contribution that was made by the Roman Dutch and the English law.

(10 x 1) (10)

7.3 Write explanatory notes on the small claims court under the following heading:

7.3.1 Powers and functions

7.3.2 Legal capacity of the court

(2 x 4) (8)
[30]

TOTAL SECTION B: 150
GRAND TOTAL: 200

BUSINESS STUDIES

Copyright reserved

Downloaded from www.studypapers.co.za