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higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE

PUBLIC LAW N6

(13030136)

10 September 2020 (X-paper)
09:00–12:00

This question paper consists of 7 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 section 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 (1.1–1.11) in the ANSWER BOOK.

1.1 A definition clause is a list of terms that define certain words or phrases used in legislation.

1.2 Earlier and later laws are internal aids for the interpretation of law.

1.3 A subjective right (SR) establishes a relationship between a legal subject and a legal object.

1.4 One of the conditions of state liability provides that the official must have been acting as an official of the relevant department.

1.5 If a person is not satisfied with the decision of a chief's court, he or she cannot take the matter to an ordinary court.

1.6 A regional magistrate is the presiding officer of a high court.

1.7 Sovereignty is based on the power to rule and make laws for that state.

1.8 PAJA (Promotion of Administrative Justice Act) requires that administrators inform people about their rights to review or appeal and to request reasons for decisions.

1.9 The president or premier of a province has the authority to issue a proclamation.

1.10 A private-law relationship is established when government bodies enter into a contract/agreement and are therefore involved in a legal relationship.

1.11 In an internal control relationship two government organs within the same power base disagree and oppose each other.

(11 × 1) **[11]**

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QUESTION 2

Choose a/an word/item from COLUMN B that matches a description in COLUMN A. Write only the letter (A–J) next to the question number (2.1–2.10) in the ANSWER BOOK.

COLUMN A		COLUMN B	
2.1	Hears appeals of criminal and civil cases	A	labour court
2.2	Can review and hear appeals of criminal and civil cases from the lower courts in their jurisdiction	B	small claims court
		C	maintenance court
2.3	The function of this court is to restore the original land to the rightful owner	D	high courts
		E	district court
2.4	This court can order an employer or employee or union to stop committing unfair labour practices	F	supreme court of appeal
		G	sexual offences courts
2.5	In this type of court a person is allowed to institute a minor civil claim up to the amount of R15 000	H	land claims court
		I	water tribunal
2.6	They are designed to provide the necessary privacy for children and victims	J	chief's court
2.7	If parents fail to support their children a complaint may be lodged at this court		
2.8	It functions as a magistrate's court but deals with petty crimes such as petty gambling offences		
2.9	These courts deal with customary issues in terms of customary law		
2.10	Independent body that has jurisdiction in all the provinces		

(10 × 2) **[20]**

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QUESTION 3

Complete the following sentences by filling in the missing word or words. Write only the word or words next to the question number (3.1–3.9) in the ANSWER BOOK.

3.1 Mandate is a type of delegation where the person or organ with more authority makes the decision and instructs a … person or organ to act on its behalf. (2)

3.2 The court or tribunal has the right to judicially review administrative action if the action was procedurally … . (2)

3.3 A collective labour agreement or collective bargaining agreement is an agreement between (a) … and (b) … that regulates the terms and conditions of employees in their work place. (4)

3.4 Statutory appeal is an appeal from a lower court to the … court. (2)

3.5 According to the fundamental rule of interpretation words should be taken to have their … meaning. (2)

3.6 Private law regulates the relationship between two legal … . (2)

3.7 Foreign law is also known as (a) … law or the law of (b) … . (4)

3.8 Intellectual properties are (a) … or intellectual/mental creations of the (b) … mind. (4)

3.9 The golden rule of interpretation determines that the interpreter must determine the (a) … of the legislator and the literal rule of interpretation means that the interpreter must follow the (b) … of the legislator. (4)

[26]

TOTAL SECTION A: 57

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SECTION B

QUESTION 4

4.1 Define the following terms:

4.1.1 Private-law relationship

4.1.2 Judicial review

4.1.3 Civil liability

4.1.4 Proclamations

4.1.5 Law of commitment

4.1.6 Performance

(6 × 2) (12)

4.2 The principle of legality states that administrators must obey the law and must be authorised by law for any decisions they make.

Explain the *principle of legality*. (3 × 2) (6)

4.3 Explain how cases reach the constitutional court. (4 × 2) (8)

4.4 Who is the current Minister of Justice and Correctional Services? (2 × 1) (2)

4.5 List the functions of the supreme court of appeal. (6 × 2) (12)

[40]

QUESTION 5

5.1 Briefly explain the preamble/preface as one of the internal aids of interpretation with regard to the interpretation of law. (4 × 2) (8)

5.2 Many black communities in South Africa live according to indigenous law that is also unwritten customary law.

Name FOUR characteristics of indigenous law. (4 × 2) (8)

5.3 Write a short note on objective sense (OS). (6 × 2) (12)

5.4 List the different types of administrative proceedings. (5 × 2) (10)

5.5 Differentiate between an *internal control relationship* and an *independent control relationship*. (4 × 2) (8)

5.6 If a judicial authority finds that a decision is unlawful, unreasonable or procedurally unfair, it may order that the situation must be rectified.

Name FOUR orders a judicial authority may give. (4 × 2) (8)

[54]

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QUESTION 6

6.1	How does one establish if a body is an organ of state or a government body?	(8 × 2)	(16)
6.2	List the components of legislation that contribute towards administrative law.	(4 × 1)	(4)
6.3	Name SIX functions of the master of the high court.	(6 × 2)	(12)
6.4	Before the Constitutional Court can hear a case, a quorum of at least eight judges must be present. Explain how the constitutional court functions or decides cases.	(7 × 2)	(14)
6.5	List the characteristics of law.	(3 × 1)	(3)
			[49]

TOTAL SECTION B:	**143**
GRAND TOTAL:	**200**

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