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higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE

PUBLIC LAW N6

(13030136)

14 November 2022 (X-paper)
09:00–12:00

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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 blue or black pen.
6. Write neatly and legibly.

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SECTION A

QUESTION 1

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

1.1 The golden rule of interpretation means that the interpreter must determine the intention of the legislator.

1.2 An appeal is appropriate when it is alleged that the court came to a right conclusion on the facts.

1.3 Collective labour agreement is an agreement between the employer and employee that regulates the terms and conditions of employees in their workplace.

1.4 Delegation means the transfer of power from a higher person or body to a lower person or body.

1.5 The rights of private individuals are taken away when they enter into an administrative-law relationship with a government organ.

1.6 The premier or president has the authority to issue a proclamation.

1.7 Foreign law is also known as indigenous law.

1.8 Principles of legality prohibit discrimination against individuals.

1.9 Messengers of the court perform the same functions as the sheriffs of the High Court.

1.10 Private law controls the administration of the state in general.

(10 × 1) **[10]**

QUESTION 2

Complete the following sentences by writing only the missing word or words next to the question number (2.1–2.7) in the ANSWER BOOK.

2.1 Real rights are rights with respect to …. (2)

2.2 Procedural law is part of (a) … and private law and determines the (b) … that must be followed in a (c) … (6)

2.3 Constitutional Court is the highest court in all … matters. (2)

2.4 A … officer acts as court orderly. (2)

2.5 International law defines a (a) … state as having a (b) … population. (4)

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2.6 Administrative action must be in … interest. (2)

2.7 A child under the age of 10 years does not have … capacity and cannot be arrested and charged for an offence. (2)
[20]

QUESTION 3

Complete the following sentences by choosing a word or words from the list below. Write only the answer next to the question number (3.1.1–3.1.4) in the ANSWER BOOK.

attorney; judge; court orderlies; clerk of the court

3.1.1 Handle exhibits and summonses, and call witnesses.

3.1.2 This official is responsible for administrative functions in the court and does not need a legal qualification.

3.1.3 The client must first approach this person and then an advocate can be instructed to appear for the client in higher courts.

3.1.4 Presides in the higher court in SA and is appointed by the State President.

(2 × 4) (8)

3.2 Define the following terms:

(a) Plaintiff
(b) Defendant
(c) Interdict
(d) Proclamations
(e) Mercantile law
(f) Law of obligation (12)
[20]

TOTAL SECTION A: 50

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SECTION B

QUESTION 4

4.1 Name and explain the fundamental rule of interpretation. (2 × 10) (20)

4.2 Discuss the preamble/preface as one of the internal aids of interpretation (2 × 4) (8)

4.3 If the judicial control finds that the administrative action or decision was unlawful or procedurally unfair, it can make certain orders to rectify the situation.

Mention those orders. (2 × 4) (8)

4.4 It is not possible for the elected representatives to handle all services on their own. For this reason, government institutions are established, and staff delegated to act as the arms of government.

Explain *delegation*. (2 × 4) (8)

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

[46]

QUESTION 5

5.1 How can a person know or establish whether a body is an organ of the state or a government body? (2 × 10) (20)

5.2 Identify and explain the components of legislation as a source of administrative law. (4 × 3) (12)

5.3 Administrative action must be reasonable. List the elements that constitute a reasonable decision or administrative action. (2 × 6) (12)

5.4 Name the things that must be done if a children's court finds a juvenile guilty of crime. (2 × 3) (6)

[50]

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QUESTION 6

6.1 Study the scenario below and answer the questions.

Dr R is a medical practitioner in a public hospital in South Africa. His daily duties include saving patients' lives by treating them, operating on them, and giving them medication. One day, Mr P was admitted to the ward where Dr R was working. Dr R attended to him and declared that he needed to be operated without delay. Dr R started the operation. While busy operating, his cellphone rang. He stopped the operation and answered the phone. On completing the call, he realised that Mr P had died. Now, the relatives of Mr P want to institute a claim against the Dr R, because they are blaming him for Mr P's death.

6.1.1 What kind of claim can be instituted by Mr P's relatives? (2)

6.1.2 Define the legal proceeding you mentioned in QUESTION 6.1 (2)

6.1.3 Against whom can the claim be instituted, and why must it be instituted against that person? (2 × 2) (4)

6.1.4 List the aspects one must take into consideration when instituting a state liability case. (12)

6.2 Name the conditions the state must take into account in an emergency situation before they can take action or declare a war. (2 × 2) (4)

6.3 Discuss the separation of powers as applied in South Africa. (2 × 3) (6)

6.4 Give the functions of the Land Claims Court. (2 × 3) (6)

6.5 Differentiate among THREE types of delegation. (18)

[54]

TOTAL SECTION B: 150
GRAND TOTAL: 200

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