



higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

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NATIONAL CERTIFICATE

LEGAL PRACTICE N6

(13030126)

19 June 2018 (X-Paper)
09:00–12:00

This question paper consists of 6 pages.

DEPARTMENT OF HIGHER EDUCATION AND TRAINING
REPUBLIC OF SOUTH AFRICA
NATIONAL CERTIFICATE
LEGAL PRACTICE N6
TIME: 3 HOURS
MARKS: 200

NOTE: If you answer more than the required number of questions, only the required number will be marked. Clearly cross out ALL work you do not want to be marked.

INSTRUCTIONS AND INFORMATION

1. Read ALL the questions carefully.
 2. SECTION A is COMPULSORY.
 3. Answer any FIVE questions in SECTION B.
 4. Number answers according to the numbering system used in this question paper.
 5. Neatness, style and a systematic exposition of facts are required. Where possible, answer questions by point, but always in full sentences.
 6. Write neatly and legibly.
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SECTION A (COMPULSORY)**QUESTION 1**

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

- 1.1 Intangible assets, for example rights, are transferred by means of cession.
- 1.2 Every page of a notarial deed must be numbered consecutively.
- 1.3 If an article is destroyed due to circumstances beyond control of the parties, the purchaser bears the risk.
- 1.4 An antenuptial contract is a good example of a notarial agreement.
- 1.5 When a contract is voidable, it can never be enforced by parties.
- 1.6 Duress of another party renders a contract void.
- 1.7 All contracts must be in writing.
- 1.8 The Credit Agreement Act has been replaced by the National Credit Act.
- 1.9 All credit agreements must be in writing.
- 1.10 An *action quanti minoris* allows the purchaser to claim a deduction on the price of damaged goods.

(10 × 2) [20]

QUESTION 2

Give a term for each of the following descriptions by choosing one from the list below. Write only the term next to the question number (2.1–2.15) in the ANSWER BOOK.

void; voidable; prospecting contracts; counter offer; mora debitoris; justus error; proof of title; cession; perfecta; error juris; tacit agreement; right of way; preamble; rejection; occupation; latent defect; patent defect; fraudulent misrepresentation

- 2.1 Valid means of terminating an offer
- 2.2 Land servitude
- 2.3 Contract which came into existence by means of one person's behaviour
- 2.4 Contract prohibited by law
- 2.5 Deed of transfer

- 2.6 Example of notarial agreement
- 2.7 Late delivery by seller
- 2.8 Reasonable mistake
- 2.9 Transfer of rights to a third party
- 2.10 Selling something while lying about its functioning
- 2.11 Preparation of documents and process involved in transferring land to a new owner
- 2.12 Identifies the owner of the property to be transferred
- 2.13 Mr Mzondo offers to sell his car to Ashly for R 40 000. Ashly accepts the offer, but says he is willing to pay R30 000.
- 2.14 Visible to the eye
- 2.15 The risk for accidental losses pass to the buyer the moment a contract is ... (15 × 2) [30]
- TOTAL SECTION A: 50**

SECTION B

Answer only FIVE questions from this section.

QUESTION 3

Alexis Sanchez is a Manchester United soccer player in England. He decided to emigrate to South Africa and stay with his family permanently. He obtained a mortgage from the Standard Bank to buy himself a new house.

- 3.1 Explain the term *mortgage*. (1 × 2) (2)
- 3.2 Name the THREE requirements for a valid mortgage bond. (3 × 2) (6)
- 3.3 List and explain any SIX clauses (contents) of a mortgage bond. (7 × 2) (14)
- 3.4 Compare *notarial* and *underhand* agreements using a table format. (4 × 2) (8)
- [30]**

QUESTION 4

Bevily Moyo bought a 50-inch television from Konfizoh Furniture Shop (KFS). The cash price for the television was R12 000 and the credit price was R16 000. She did not have enough cash to pay for the television. She entered into a credit agreement with KFS in which she undertook to pay the television over a period of 24 months.

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|-----|---|---------|-------------|
| 4.1 | Name any SIX minimum statutory requirements that must be present in a valid credit agreement. | (6 × 2) | (12) |
| 4.2 | List any SIX invalid provisions which may not be included in credit agreements. | (6 × 2) | (12) |
| 4.3 | Explain the functions of the deeds office. | (3 × 2) | (6) |
| | | | [30] |

QUESTION 5

Miss Sonjeke wants to buy a house from Mashwede Properties Ltd. As the conveyancer you have to compile the necessary documentation including a concept deed of transfer.

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|-----|---|---------|-------------|
| 5.1 | Name TWO functions of a deed of transfer. | (2 × 2) | (4) |
| 5.2 | Explain how you would draft a concept deed of transfer. Your answer should include the prescribed conditions which must be complied with in terms of the Deeds Act. | (9 × 2) | (18) |
| 5.3 | Briefly discuss the functions of a body corporate. | (4 × 2) | (8) |
| | | | [30] |

QUESTION 6

You are a practising attorney, notary and conveyancer in Cape Town. Your friend Mihle Peter who lives in East London wants to buy property in Port Alfred near the beach front. She asks you to assist her with the transfer of the property.

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|-----|--|---------|-------------|
| 6.1 | List FOUR elements of a valid offer. | (4 × 1) | (4) |
| 6.2 | Explain the requirements with which you have to comply when drafting a notarial deed for submission to the deeds office. | (8 × 2) | (16) |
| 6.3 | Briefly discuss <i>action rehibitoria</i> as a remedy for latent defects. | (5 × 2) | (10) |
| | | | [30] |

QUESTION 7

A servitude is a registered right that a person has over the immovable property of another. It allows the holder of the servitude to do something with the other person's property, which may infringe upon the rights of the owner of that property.

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|-----|---|---------|-------------|
| 7.1 | List FIVE examples of ground servitudes. | (5 × 2) | (10) |
| 7.2 | Offer and acceptance forms the basis of a valid contract. | | |
| | List FIVE elements of a valid offer. | (5 × 2) | (10) |
| 7.3 | Briefly explain ways in which an offer can be legally terminated. | (5 × 2) | (10) |
| | | | [30] |

QUESTION 8

Mr Ketelo bought a car from Fana for R40 000. Fana told Mr Ketelo that the milage of the car was 20 000 km yet it was 68 000 km. Fana intentionally did not tell Mr Ketelo that the car had a problem of overheating on long distances. Mr Ketelo paid the R40 000 in full and took his car.

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|-----|--|---------|-------------|
| 8.1 | Identify the buyer and the seller in the scenario above. | (2) | |
| 8.2 | List FOUR duties of the seller to the buyer. | | (8) |
| 8.3 | Briefly explain the term <i>misrepresentation</i> . | | (2) |
| 8.4 | Fana made a misrepresentation to Mr Ketelo. | | |
| | Do you agree with the above statement? Motivate your answer. | | (3) |
| 8.5 | List any THREE kinds of misrepresentation. | | (3) |
| 8.6 | Explain any FIVE elements which must be present to prove the existence of a misrepresentation by another party. | (5 × 2) | (10) |
| 8.7 | Misrepresentation renders a contract voidable. | | |
| | Is the statement TRUE or FALSE? Write only 'True' or 'False' next to the question number (8.7) in the ANSWER BOOK. | | (2) |
| | | | [30] |

TOTAL SECTION B:	150
GRAND TOTAL:	200