



**higher education
& training**

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LEGAL PRACTICE N6

11 JUNE 2019

This marking guideline consists of 9 pages.

SECTION A (COMPULSORY)**QUESTION 1**

- 1.1.1 B
- 1.1.2 C
- 1.1.3 B
- 1.1.4 B
- 1.1.5 A
- 1.1.6 B
- 1.1.7 C
- 1.1.8 C
- 1.1.9 B
- 1.1.10 C

(10 × 1) (10)

- 1.2.1 Mortgagor
- 1.2.2 Expedition theory
- 1.2.3 Ratification
- 1.2.4 Personal servitude
- 1.2.5 Delegation
- 1.2.6 Misrepresentation
- 1.2.7 Credit receiver
- 1.2.8 Personal right
- 1.2.9 Seller
- 1.2.10 Constructive delivery
- 1.2.11 Preamble
- 1.2.12 Extinctive
- 1.2.13 Real
- 1.2.14 Invitation
- 1.2.15 Error in corpore

(15 × 2) (30)

- 1.3 1.3.1 C
- 1.3.2 A
- 1.3.3 D
- 1.3.4 E
- 1.3.5 B

(5 × 2) (10)
[50]**TOTAL SECTION A: 50**

SECTION B

Answer any FIVE of the SIX questions.

QUESTION 2

- 2.1
- Right of way
 - Grazing right/pasturing
 - Right to divert waste or rain water
 - Irrigation/Right to lay on water
 - Building heights (5)
- 2.2.1 Fraudulent misrepresentation
 2.2.2 Unjustified enrichment
 2.2.3 Emancipation (3 × 2) (6)
- 2.3
- This is a special remedy for latent defects.
 - A latent defect is an invisible defect.
 - The buyer can cancel the contract.
 - The general rule is that no damages can be claimed.
 - The buyer must return the article.
 - The seller must refund the money. (Any 5 × 2) (10)
- 2.4
- 2.4.1 Symbolic delivery
 2.4.2 Symbolic delivery
 2.4.3 Traditio longa manu/delivery with the long hand
 2.4.4 Constitutum possessorium (4 × 2) (8)
- 2.5 Void (1)
[30]

QUESTION 3

- 3.1
- It is a document whereby property rights of land are transferred.
 - It serves as proof of new property ownership (proof of title). (2 × 2) (4)
- 3.2 A conveyancer is a practising attorney with special skills (has passed an additional conveyancing exam and has been admitted by the High Court to practise as such). (2)
- 3.3 Transferee (1)
- 3.4 Property clause (1)
- 3.5 Extension clause (1)
- 3.6 Land servitude (1)

- 3.7
- Usufruct
 - Usage
 - Occupation
- (Any 2 × 1) (2)

- 3.8 The purchase price is R1 800 000 (one million and eight hundred thousand rand)
(Any correct example – must contain figures as well as description in words) (2)

- 3.9.1 Johan Gouws
ID.....
And
Elma Bosman
ID.....
(Married in community of property) (Any 2 × 1)

- 3.9.2 Lizette Gouws
ID
Duly assisted by...
ID...
(Natural parent of (Any 2 × 1)
(2 × 2) (4)

3.10

Property value	Rates of transfer duty
R0–R600 000	0✓
R600 001–R1 000 000	R12 000✓✓
R1 000 001–R1 500 000	R25 000✓✓
R1 500 001 and above	R88 000✓✓
	TOTAL = R125 000✓✓

(9)

- 3.11 The seller (1)

- 3.12
- Bond cancelling
 - New bond registration
- (2)
[30]

QUESTION 4**(ADDENDUM A)**

4.1

POWER OF ATTORNEY TO PASS TRANSFER

I/We, the undersigned

Amelia Joubert✓✓
ID 5909040037084✓**Unmarried✓**do hereby appoint **Stephan Nel✓** and/orWith power of substitution to be my true and lawful Attorney and Agent to
appear before the**REGISTRAR OF DEEDS AT CAPE TOWN✓**and there to declare that I/we did on the **first✓** day of **July 2018✓**

Sell to

Elmarie Sylvester✓✓
ID 690303003708✓**Married out of community of property✓**For the sum of **R1,3 million✓** (one million and three hundred thousand
rand)✓

The following property, namely

Erf 1266✓ RAVENSMEAD✓**REGISTRATION DIVISION: WESTERN CAPE✓**IN EXTENT **1 800✓** (one thousand and eight hundred) square metres✓HELD BY DEED OF TRANSFER NO. **T 6576/1994✓**

(20)

4.2 Notarial document is drawn up **in the presence of the notary✓** and **signed by the parties concerned and the notary.✓**

An underhand document can be drafted by a notary, and **can only be signed by the parties referred to in the document.✓** This type of document **can also be drafted by anybody other than the notary.✓**

(4)

4.3.1 Cession means the transfer of rights from one person to another person who receives the rights.

4.3.2 When minerals are prospected on the landowner's land, that right can be transferred or alienated by means of a cession of mineral rights. This is a notarial agreement.

4.3.3 The landowner grants permission to another person to prospect specific mineral or minerals with the option to buy or rent it.

(3 × 2)

(6)
[30]

QUESTION 5

5.1 5.1.1 Latent defect (1)

5.1.2 Actio redhibitoria (1)

5.1.3 No (1)

5.1.4 • Voetstoets means that the article is sold 'as is' – with or without defects.
• Carel would not be able to cancel the contract. (2)

5.2.1 Yes.
It is an act of God/something beyond the control of the parties. (2)

5.2.2 The buyer (1)

5.2.3 • The wine farm.
• The article was not determined as they did not separate the wine from the rest. (2)

5.2.4 • When the price is determined.
• The article is determined.
• The contract is unconditional. (3)

5.2.5 • To pay the price as agreed.
• To accept delivery.
• To reimburse the seller for expenses incurred while looking after the article sold. (Any 2 × 1) (2)

	5.2.6	• To care for the article sold until delivery takes place. • To guarantee that there will be no latent defects. • To guarantee that the buyer will not be lawfully evicted. • To deliver the article sold.	(Any 3 × 1)	(3)
5.3	5.3.1	7		
	5.3.2	3		
	5.3.3	1		
	5.3.4	8		
	5.3.5	4		
	5.3.6	6		
	5.3.7	2		
	5.3.8	10		
	5.3.9	9		
	5.3.10	12		
	5.3.11	5		
	5.3.12	11		
			(12 × 1)	(12) [30]

QUESTION 6

6.1	• Legal agreement • Between two or more persons • With necessary contractual capacity • And serious intention • To be contractually bound	(5)
6.2	• Parties must have contractual capacity. • They must be of the same mind (consensus). • Parties must have a serious intention (iusta causa). • The agreement must be legal or lawful. • Parties must communicate their intentions. • Compliance with formalities.	(Any 5 × 1) (5)

6.3

KIND OF CONTRACTUAL CAPACITY	DESCRIPTION	EXAMPLE
No contractual capacity	No rights or obligations can be obtained or incurred.	Insane, drunk, infans
Limited contractual capacity	Rights can be obtained, but no obligations.	Minor (pupillus); insolvent; prodigal
Full contractual capacity	Rights can be obtained and obligations can be incurred.	All people, except those excluded, for example, the minor.

(3 × 3)

(9)

6.4

- Revocation
- Rejection
- Counter offer
- Option
- Death of one of the parties
- Insanity of one of the parties
- Effluxion of time

(Any 5 × 1)

(5)

6.5

TYPE OF MISTAKE	EXAMPLE
Error in corpore	Mistake with regard to identity
Error in persona	Mistake with regard to person
Error in negotio	Mistake with regard to the type of contract
Error in substantia	Mistake with regard to the quality of the article

(Any 3 × 2)

(6)

[30]**QUESTION 7**

- 7.1.1 Deed of bond/mortgage bond/bond
- 7.1.2 Identifies the conveyancer who assumes responsibility for the correctness of the facts mentioned in the deed.
- 7.1.3 Indication that the property serves as security for the payment of debt in the form of instalments.
- 7.1.4 The place where notices and processes may be served on the mortgager.

	7.1.5	Signing by the parties or mortgagors in the presence of the conveyancer.		
	7.1.6	Indicates the institution that advances the money (lends the money) to the mortgagor.	(6 × 2)	(12)
7.2	7.2.1	Delivery with the short hand/delivery by means of agreement. An example, borrowed book already in possession of buyer		
	7.2.2	Delivery with the long hand/article too heavy/pointed out, for example in the case of the selling of cattle.		
	7.2.3	Applicable to immovable property.	(3 × 2)	(6)
7.3	7.3.1	False. A person is not the owner when he or she only has occupation.		
	7.3.2	True		
	7.3.3	True		
	7.3.4	False, he has limited contractual capacity.		
	7.3.5	True		
	7.3.6	False. It is only applicable to a specific situation.		
	7.3.7	True		
	7.3.8	False. An antenuptial contract is needed when getting married out of community of property.		(12)
				[30]
				TOTAL SECTION B: 150
				GRAND TOTAL: 200