



**higher education
& training**

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LABOUR RELATIONS N5

24 November 2022

This marking guideline consists of 9 pages.

SECTION A**QUESTION 1**

- 1.1 C
- 1.2 C
- 1.3 A
- 1.4 D
- 1.5 C
- 1.6 E
- 1.7 B
- 1.8 B
- 1.9 D
- 1.10 A

(10 × 1) [10]

QUESTION 2

- 2.1 True
- 2.2 True
- 2.3 True
- 2.4 False
- 2.5 False
- 2.6 True
- 2.7 False
- 2.8 False

(8 × 1) [8]

QUESTION 3

- 3.1 C
- 3.2 G
- 3.3 B
- 3.4 E
- 3.5 D
- 3.6 I
- 3.7 F
- 3.8 J
- 3.9 L
- 3.10 A

(10 × 1) [10]

QUESTION 4

- 4.1 dominant
- 4.2 expansion; methods; place
- 4.3 power
- 4.4 international; a transnational
- 4.5 employer organisations; state
- 4.6 trade unions
- 4.7 ease; power

[12]**TOTAL SECTION A: 40****SECTION B****QUESTION 5**

- 5.1 Conversion is the process inside a specific structure that changes an input into an output.

Conversion in the labour relations system is made up of:

- Structure: courts, councils and in-company workplace forums
- Procedures: labour laws and workplace regulations, in-company procedures can include disciplinary hearings and grievance procedures.
- Processes: arbitration, bargaining, court judgment, in-company procedures can include worker participation. (4 × 2)

(8)

- 5.2
- Termination by agreement
 - Termination on notice
 - Supervening impossibility
 - Insolvency of the employer
 - Redundancy/retrenchment
 - Summary termination
 - Effluxion of time
 - Completion of the task

(Any 4 × 2) (8)

- 5.3
- It maintains order in the workplace, as both the employer and the employee are bound by rules and regulations as laid down by the various Acts.
 - It establishes parameters (borders) for conducting the labour relationship.
 - It lays down minimum conditions with regard to substantive conditions of employment.
 - Where there is no labour legislation, the employment relationship is governed by the contract of employment enforceable at common law.
 - The contract of employment and common law do not sufficiently protect employees and also do not ensure that fairness or equity prevails.
 - Labour legislation is designed to ensure the protection of both employers and employees.
 - The state has therefore had to implement legislation on minimum terms and conditions of employment.
 - The state must also provide for legislation to ensure the health and safety of the workforce. (Any 4 × 2) (8)
- 5.4
- Economic: A successful economy provides jobs to workers.
 - Political: State involvement can create laws to protect workers and policies to create jobs.
 - Legal: Labour laws protect workers and keep the peace in the labour system.
 - Social: Families and schools produce the workers that we need to keep the labour relations system running. (4 × 2) (8)
- 5.5
- 5.5.1 Profit-driven✓✓ and voluntarist state versus socially driven business and mandatorist state✓✓
- 5.5.2 Privately owned business✓✓ versus community-owned business✓✓ (2 × 4) (8)
- [40]**

QUESTION 6

- 6.1
- An employer must pay an employee who works on a Sunday double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee one and one-half times the employee's wage for each hour worked.
 - If an employee works less than the employee's ordinary shift on a Sunday and the payment that the employee is entitled to is less than the employee's ordinary pay, the daily wage, the employer must pay the employee's ordinary wage.
 - An agreement may permit an employer to grant an employee who works on Sunday paid time off, equivalent to the difference in value between the pay received by the employee for working on the Sunday and the pay that the employee is entitled to. (3 × 2) (6)

- 6.2 The minister may prescribe by regulation the maximum permitted hours of work, including overtime, that any category of employee may work.
- This applies to the daily and weekly hours, or any other period specified in the regulation.
 - During a continuous period without a break
- These regulations may be made only:
- On the advice of the chief inspector appointed in terms of section 27 of the Occupational Health and Safety Act or the chief inspector appointed in terms of section 48 of the Mine Health and Safety Act
 - After consulting the commission (4 × 1) (4)
- 6.3
- South Africa's national minimum wage was passed through parliament. It came into force on 1 May 2018. The wage is set at R20 per hour, which translates to approximately R3 500 per month based on a 40-hour week, or R3 900 per month for those working a 45-hour week.
 - According to section 9 of the Basic Conditions of Employment Act, maximum working hours are 45 hours per week, and 9 hours per day (if the employee works for five days a week or less). Employees who work more than 5 days a week, may only work for 8 hours a day. (2 × 4) (8)
- 6.4 Accept any answer that is well substantiated. (2 × 2) (4)
- 6.5 An employer may not require or permit an employee to work overtime, ✓✓ except in accordance with an agreement. If the employee works overtime, he/she may not work more than 10 hours' overtime a week. That is a total of 12 hours on any day.
- A collective agreement may increase the maximum permitted overtime to 15 hours a week. This agreement may not apply for more than two months in any period of 12 months. ✓✓✓ (5)
- 6.6
- To determine its own constitution
 - To hold election for its office bearers, officials and representatives
 - To plan and organise its administration and lawful activities
 - To participate in forming a federation of trade unions or federation of employer's organisations
 - To join a federation
 - To affiliate with, and participate in the affairs of, any international workers' organisation (6 × 2) (12)
- 6.7 SAFTU, COSATU, FEDUSA, NACTU, CONSAWU (1)
- [40]**

QUESTION 7

- 7.1 A written agreement concerning terms and conditions of employment, or any other matter of mutual interest, concluded by one or more registered trade unions on the one hand and, on the other hand: ✓✓
 • one or more employers ✓✓
 • one or more registered employer's organisations
 • one or more employers and one or more registered employer's organisations. ✓ (5)
- 7.2
 • Employee authorisation
 • Deduction
 • Revoking an authorisation
 • Notice
 • Details to the trade union (5)
- 7.3
 • Conclude collective agreements
 • Create and run a pool of money
 • Ask workplace forum to talk about issues that cannot be discussed at the bargaining council
 • Assist home workers and informal sector workers wherever possible
 • Create and run training and education schemes
 • Make policy suggestion to Nedlac
 • Set out how much sick pay holiday pay is due to employees (8 × 2) (16)
- 7.4
 • The class system
 • Divorce of workers from owners
 • Conditions of the working class
 • Poor working conditions and wages
 • Mass production and division of labour
 • Economic insecurity and dependence
 • Independence of discipline (7 × 2) (14)
[40]

QUESTION 8

- 8.1
 • To provide a legal framework
 • To bring about political stability
 • To keep a balance of power
 • To intervene when labour relations impact negatively on the economy and society (4 × 2) (8)

- 8.2
- A fair reason is worked out by the facts of each case (technological changes, customer behaviour, competition)
 - Fair procedure is worked out by looking at the steps and guidelines in this code (consultative process)
 - The employer must prove the reason and procedure for dismissal were fair (using self-service and digital technologies)
 - Legitimate grounds (operational requirement) (4 × 2) (8)
- 8.3
- The state: tripartite alliance, mixed approach to involvement
 - The employer (employer's organisations): job creation, collective bargaining (industrial level), policy creation (BUSA at Nedlac)
 - The employee (trade unions), e.g., COSATU: employees provide labour and have rights to shape workplace, engage in collective bargaining (3 × 2) (6)
- 8.4
- To represent and help employees during grievance and disciplinary procedures
 - To check whether the employer is acting according to collective agreements
 - To report unfair or illegal behaviour of the employer
 - To advise employees and keep them informed of union plans
 - To inform trade unions about problems in the workplace
 - To act as a delegate to the national union congress (6 × 2) (12)
- 8.5
- Job requirements
 - Code of conduct
 - The induction programme
 - Safety rules and regulations
 - Disciplinary and grievance procedures
 - Job title (6)
- [40]**

QUESTION 9

- 9.1
- High unemployment rates
 - Changes in demand
 - Changes in supply
 - Crime
 - HIV/Aids
 - Inadequate education and training
 - Surplus of unskilled workers
 - Changes in surplus
 - Absence of entrepreneurship skills
 - Shortage of skilled workers
 - Mobility of employees is limited (Any 10 × 1) (10)

- 9.2 Procedural agreement
- Job security
 - Collective bargaining rights
 - Agency shop agreements
 - Organisational rights
 - Disciplinary codes and procedures
 - Job security and retrenchment
 - Grievance procedures
 - Strike and picketing rules
 - BEE and affirmative action
 - Job grading processes
 - Corporate social investment
- (Any 5 × 1)
- Substantive agreement
- Salaries
 - Benefits
 - Working conditions
 - Performance-linked pay
 - Health and safety
 - Employee stock options
 - Training and development
 - Agency shop agreements
 - HIV/AIDS
- (Any 5 × 1)
(5 × 2) (10)
- 9.3 • Feedback happens when people learn the result of something and decide to act differently to change that result. (8)
- If workers and their employer have a dispute about overtime, this acts as an input into the labour relations system.
- If the dispute is resolved through drawing up a new overtime work agreement, then this agreement is the output.
- The agreement can become a new input into the labour system. (4 × 2)

- 9.4
- Collective bargaining is a process of negotiations between employers and a group of employees.
 - Benefit funds: trade unions try to support their members by introducing provident, pension and medical funds as well as education and housing schemes.
 - Collective action is a fundamental part of collective bargaining.
 - Affiliation and representation on national and international bodies.
 - Trade unions will try to associate with other like-minded organisations.
 - Agency shop and closed-shop principles
 - Is the type of collective agreement between a majority union and an employer? This requires employers to deduct an agreed agency fee from the wages of workers who are not members of the trade union.
 - Grievance, disciplinary and appeal procedures
 - One of the aims of a trade union is to bring grievances of workers to the attention of management and help settle it. (Any 5 × 2) (10)
- 9.5 Industrial action by unionised workers (called pickets) who either are on strike, or are trying to gather support for a strike, by assembling near the entrance to the employer's premises. Pickets try to (1) persuade co-workers to join them, (2) refuse workers of other firms (such as delivery men) entry to the premises, and (3) stop customers from doing business with their employer. To be lawful, picketing is usually required to be approved in a union ballot. (2) [40]
- TOTAL SECTION B: 160**
GRAND TOTAL: 200