higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL LAW
NQF LEVEL 3

(8021003)

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09:00–12:00

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DEPARTMENT OF HIGHER EDUCATION AND TRAINING
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)
CRIMINAL LAW
NQF LEVEL 3
TIME: 3 HOURS
MARKS: 100

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. Use only a black or blue pen.
5. Write neatly and legibly.

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SECTION A

QUESTION 1

Various options are given as possible answers to the following questions. Choose the answer and write only the letter (A–D) next to the question number (1.1–1.10) in the ANSWER BOOK.

1.1 Which ONE of the following statements does not represent a requirement for establishing a common purpose in the context of criminal liability?

A Each participant must have the required intention in respect of the crime.
B The actions of the main perpetrator must have a direct causal link to the actions of others.
C All participants must be physically present at the scene of the crime.
D All participants must be aware of the commission of the crime.

1.2 Which ONE of the following is a key aspect to the establishment of a common purpose in criminal liability?

A All the participants must be fully aware of all the intricate details of the crime.
B Mere presence at the crime scene is sufficient to establish liability.
C The actions of the main perpetrator must have a direct causal link to the actions of others.
D Participants must be aware that an unlawful act is being committed.

1.3 Which ONE of the following is NOT a recognised source of South African criminal law?

A Legislation or statutes
B Case law or judicial precedent
C Social norms
D Customary law

1.4 Which ONE of the following describes the objective of the South African criminal law?

A To determine moral norms for society
B To determine social rules for society
C To ensure uniform behaviour in society
D To determine what conduct constitutes crime and how offenders should be punished

1.5 Which ONE of these is not required for an act to be considered a crime?

A The action was performed by a person.
B The action was against the law.
C The individual committing the act knew it was illegal.
D A contract existed between the involved parties.

1.6 Which ONE of the following is NOT a feature of a delict?

A The primary aim of the proceedings is to secure compensation for the injured party.
B A delict impacts the state, the injured party, and the general public.
C The proceedings are commenced by a private individual.
D Such proceedings are known as civil actions.

1.7 Which ONE of the following is not a reason (purpose) for punishing an offender?

A Retribution
B Revenge
C Prevention
D Deterrence

1.8 Which ONE of the following best describes 'official capacity' as a ground of justification?

A A private citizen acting based on personal moral beliefs.
B A public officer performing an act that is unlawful but believes it to be within their powers.
C An individual executing a duty or function under the law, believing the act to be lawful and within the limits of their authority.
D A bystander observing a crime but not intervening due to personal safety concerns.

1.9 Which ONE of the following best describes the concept of *mens rea*?

A The physical act of committing a crime.
B The location where a crime took place.
C The intention or knowledge of wrongdoing when committing a crime.
D The evidence gathered at a crime scene.

1.10 Which ONE of the following best describes the principle of vicarious liability?

A An individual is solely responsible for their own actions, regardless of any organisational affiliations.
B Liability is assigned based on the level of intent or negligence of the accused.
C An employer or principal can be held responsible for the actions of an employee or agent, carried out within the scope of their duties.
D Liability only arises when an individual acts with malicious intent.

(10 × 1) **[10]**

QUESTION 2

Indicate whether the following statements are TRUE or FALSE by writing only 'True' or 'False' next to the question number (2.1–2.10) in the ANSWER BOOK.

2.1 In South African criminal law, the physical act of committing a crime is referred to as actus reus.

2.2 Mens rea, in South African criminal law, refers to the scene of the crime.

2.3 In South Africa, a person can be convicted of a crime even if they had no intention and committed no physical act.

2.4 The principle of legality in South African criminal law means that a person cannot be punished for an act unless that act was a criminal offence under law at the time of its commission.

2.5 In South African criminal law, a person can be criminally liable for failing to act, even when there is no legal duty to do so.

2.6 The principle of legality in South African criminal law dictates that no person can be punished for an act that was not a criminal offence at the time of its commission.

2.7 According to the principle of legality, statutes defining crimes must be clear and not overly broad or vague, ensuring that citizens understand the boundaries of lawful conduct.

2.8 An accomplice is a person who assists or joins another person in committing a crime but typically plays a secondary or subordinate role in its commission.

2.9 In South African criminal law, an 'attempt' to commit a crime is in itself a punishable offence, even if the intended crime was not completed.

2.10 For an attempt to be recognised, both the intention (mens rea) and a significant step towards committing the actual crime (actus reus) must be present.

(10 × 1) **[10]**

QUESTION 3

Choose a term from COLUMN B that matches a description in COLUMN A. Write only the letter (A–O) next to the question number (3.1–3.10) in the ANSWER BOOK.

COLUMN A		COLUMN B	
3.1	Previous court judgments	A	accessory
3.2	Deals with behaviours and acts that are deemed offences against society, the state, or the public, even if the immediate victim is an individual person	B	attempt to do the impossible
		C	completed attempt
		D	conspiracy
3.3	Reasons for a specific punishment given by a court of law	E	constitutional court
3.4	It ensures fairness, justice, and the rule of law and guarantees that individuals are only punished for acts that society, through its legal processes, has already deemed worthy of criminal sanction.	F	criminal law
		G	incitement
		H	interrupted attempt
3.5	The accused has done everything he intended and could do to commit the crime, but the crime does not materialise due to external factors beyond his control	I	joiner-in
		J	judicial jurisdiction
		K	judicial precedent
3.6	A person attempts to commit a crime, but the act, if completed as intended, would not be a crime.	L	principle of legality
		M	retribution and deterrence
3.7	A person of his or her own accord abandons his or her intent to commit a crime after going beyond mere preparation but before the crime's actual commission.	N	vicarious liability
		O	voluntary withdrawal
3.8	A person is in the process of actively trying to commit a crime, but he or she is prevented from completing the criminal act by some external factor.		
3.9	Encouraging, promoting, or provoking another person or a group of people to commit a crime		
3.10	A person who partakes in the commission of a crime at a stage after its inception		

(10 × 1) **[10]**

TOTAL SECTION A: 30

SECTION B

QUESTION 4

Read the following scenario and answer the question below:

Location: A popular public beach in Cape Town on a sunny afternoon. Jane, on a dare from a group of her friends, decides to remove all her clothing and run naked along the shoreline. Families are present, including young children, and many people turn to watch in shock and discomfort. Jane's friends cheer her on, recording the event on their phones. After a short distance, Jane puts her clothes back on.

Jane's act could be considered as public indecency.

From the above scenario, identify the elements that would cause her act to constitute public indecency. **[5]**

QUESTION 5

Read the following scenario and answer the question below:

Alex and Ben are hanging out in their neighbourhood. One evening, they witness a violent assault taking place on a street corner. A group of individuals is beating a person severely, and it is clear that the victim is in great distress and immediate danger. Alex and Ben stand at a safe distance, watching the assault unfold. They both have cell phones and could easily call the police for help, but they do not take any action to intervene or report the incident.

5.1 In this scenario, Alex and Ben omitted to act.

Explain under which TWO conditions omissions are punishable. (2)

5.2 Give THREE other examples of situations where omissions would have been punishable. (3)

[5]

QUESTION 6

Read the following scenario and answer the questions below:

Lisa is at home alone late at night. Suddenly, an intruder breaks into her house with the intent to rob and harm her. The intruder is armed with a knife and approaches Lisa aggressively. Fearing for her life and safety, Lisa manages to retrieve a legally owned firearm that she keeps for self-defence purposes.

As the intruder advances towards her with the knife, Lisa, in a state of genuine fear for her life, fires a shot from her firearm, hitting the intruder and killing him.

6.1 Which ground of justification can Lisa offer in this scenario? ☆ (1)

6.2 Substantiate your answer to QUESTION 6.1 by explaining TWO elements that must be present for this ground of justification. (4)

6.3 Name THREE other grounds of justification and give ONE example of each. (6)

[11]

QUESTION 7 ☆

Study the following scenarios and answer the questions below:

Scenario 1:
John is a key witness in a murder trial. He has a personal vendetta against the defendant, Mark. While testifying in court under oath, John knowingly provides false information about seeing Mark at the crime scene. He claims that he saw Mark holding the murder weapon and leaving the scene. In reality, John was nowhere near the crime scene on the day of the murder and has fabricated his testimony to implicate Mark. John's false testimony is intended to influence the outcome of the trial and is material to the case.

Scenario 2:
Emily is facing charges for embezzlement and financial fraud. She is aware that the prosecution's case heavily relies on financial records and documents. In an attempt to obstruct the course of justice and hinder her prosecution, Emily breaks into the office of her former employer, where the financial records are stored. She steals relevant documents that could be used as evidence against her and destroys them to eliminate incriminating evidence.

7.1 Identify the crimes committed in each of the scenarios. (2)

7.2 Compare the two crimes by referring to at least FOUR elements of each crime. (8)

[10]

☆

QUESTION 8

Study the following scenarios and answer the questions that follow:

Scenario 1:
John publicly encourages a group of protesters to break into a government building and destroy property to express their dissent against a new policy. John's statements cause the protesters to commit acts of vandalism and trespassing, even though he did not participate in the actual property damage himself.

Scenario 2:
Sara and Mike plan to rob a bank together. They discuss the details of the robbery, create a detailed plan, and decide on the roles each of them will play during the heist. They are apprehended by the police before they can actually rob the bank.

8.1 Identify the crime committed in each of the scenarios. (2)

8.2 Compare the two crimes by referring to at least THREE elements of each crime. (6)
[8]

TOTAL SECTION B: 39

SECTION C

QUESTION 9

Study the following scenarios and answer the questions below:

Scenario 1:
Pule notices that Sipho has left his backpack unattended on a bench while he goes for a walk. Seeing an opportunity, Pule quietly approaches the bench, takes the backpack, and walks away without anyone noticing.

In this scenario, Pule's action constitutes theft. Theft is the unlawful taking of someone else's property with the intent to permanently deprive the owner of it. In this case, Pule took the backpack without permission and had the intention to keep it for himself.

Scenario 2:
Sarah took a walk through the park. Alex approaches her and threatens her with a knife. Alex demands that Sarah hand over her wallet and smartphone, and he threatens to harm Sarah if she doesn't comply. Fearful for her safety, Sarah immediately hands over her belongings to Alex.

In this scenario, Alex's action constitutes robbery. Robbery involves the use of force, intimidation, or threats to take someone else's property directly from their person or immediate presence. In this case, Alex used the threat of violence (by displaying the knife) to compel Sarah to give up her wallet and smartphone.

9.1 Identify the crime committed in each scenario. (2)

9.2 Substantiate your answer in QUESTION 9.1 by comparing the definitions of the crimes you identified. (8)
[10]

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QUESTION 10

Study the scenario below and answer the questions.



At her friend's birthday party, Jess drank eight alcoholic coolers and 10 shots of Jägermeister. At 23:00, she staggered out of the house and climbed into the driver seat of her car that was parked in a parking bay on the side of the street. She did not realise that all four wheels of her car were stolen and her car was standing on bricks. She started the engine to drive, but fell asleep on the steering wheel with the engine running.

10.1 Identify the statutory offence Jess committed. (1)

10.2 Substantiate by referring to the following elements:

10.2.1 Sitting in the driver's seat of a motor vehicle while the engine is running (3)

10.2.2 Public road (4)

10.2.3 Proof that Jess must have been under the influence of liquor or drugs while driving (2)

[10]

QUESTION 11

Study the following scenario and answer the question below:

A bank was robbed in Bela-Bela.

Siswe and Joseph planned the bank robbery, gathered weapons, and entered the bank with the intention of stealing money. Inside the bank, they used their weapons to force the bank employees to comply with their demands. They took the money from the tellers' counters and exited the bank.

Mark is a friend of Siswe and Joseph. Mark was aware of their plans and actively assisted in the preparation and execution of the robbery. Mark helped Siswe and Joseph to procure weapons, and provided a getaway vehicle.

Sarah didn't know Siswe and Joseph, but happened to be nearby when the robbery started. She decided to join Siswe and Joseph in the robbery and started helping them by blocking the exits, shouting at the bank staff and customers, and creating chaos inside the bank.

Siswe's girlfriend Jenny, became aware of the robbery only after it had taken place, but she chose to help Siswe evade capture. Instead of reporting the crime to the police, Jenny offers Siswe a place to hide.

Identify the following participants and substantiate with reference to common purpose, where necessary.

11.1	Perpetrator(s)	(3)
11.2	Joiner-in	(3)
11.3	Accomplice	(2)
11.4	Accessory after the fact	(3)
		[11]

TOTAL SECTION C: 31
GRAND TOTAL: 100

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