higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL LAW
NQF LEVEL 3

(8021003)

8 November 2022 (X-paper)
09:00–12:00

This question paper consists of 10 pages.

147Q1N2208

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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. Start each question on a new page.
5. Use only a black or blue pen.
6. 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 correct answer and write only the letter (A–D) next to the question number (1.1–1.5) in the ANSWER BOOK.

1.1 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

1.2 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

1.3 Which ONE of the following is not a type of Attempt?

A Attempt to do the impossible
B Interrupted attempt
C Voluntary withdrawal
D Conspired attempt

1.4 Which ONE of the following constitutes valid consent for penetration in relation to the crime of rape?

A A slightly drunk man agrees to have sex with another man he met at a party.
B An eleven-year-old girl agrees to have sex with her boyfriend.
C A girl with Down's syndrome agrees to have sex with a man.
D A terrified woman did not protest out loud when a man had sex with her against her will.

1.5 Which ONE of the following will not qualify as public roads in terms of Section 1 of the National Road Traffic Act (93 of 1996)?

A A ferry connecting a public road on the two sides of a river
B The playground of a school
C A thoroughfare through the parking lot of a shopping centre
D The shoulder of a public road

(5 × 1) **[5]**

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QUESTION 2

Indicate whether the following statements are TRUE or FALSE by writing only 'True' or 'False' next to the question number (2.1–2.5) in the ANSWER BOOK.

2.1 Laws differ from norms in that laws carry a specific punishment if broken.

2.2 A civil case involves the state and the accused, whereas a criminal case involves two individuals.

2.3 When delicts are dealt with during civil proceedings, mitigating factors are taken into account.

2.4 There is no conspiracy if one of the parties pretend to conspire but actually intend to inform the police of the crime.

2.5 According to the National Road Traffic Act (93 of 1996), the definition of a vehicle also includes pedal cycles, horse-drawn carts and carts drawn by people.

(5 × 1) **[5]**

QUESTION 3

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

COLUMN A		COLUMN B	
3.1	X wants to kill Y by shooting him – he shoots at Y, but misses	A	interrupted attempt
3.2	Agreement between two or more persons to commit, or to help, or to procure the commission of a crime	B	attempt to do the impossible
3.3	Making another person believe that force is about to be used against them	C	voluntary withdrawal
3.4	X wants to burn down Y's house – he pours petrol under the door but is arrested before he can light the fire	D	incitement
3.5	Depriving a child's parents or guardians of control over that child	E	reckless driving
3.6	X wants to stab Y to death – X stabs Y in his bed, not knowing that Y already died earlier of a heart attack	F	assault
3.7	An offence in terms of Section 18(2)(b) of the Riotous Assemblies Act (17 of 1956)	G	a dangerous dependence-producing substance
3.8	Driving a vehicle in wilful or wanton disregard for the safety of persons or property	H	conspiracy
3.9	X wants to break into Y's house – he picks up a rock to smash the window but changes his mind and walks away	I	kidnapping
3.10	Any substance, or any plant from which a substance can be manufactured that is included in Part II of Schedule 2 of the Drugs and Drug Trafficking Act (140 of 1992), such as coca leaf, morphine and opium	J	completed attempt
		K	negligent driving
		L	an undesirable dependence-producing substance

(10 × 1) **[10]**

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QUESTION 4

Complete the following sentences by writing only the missing word or words next to the question number (4.1–4.3) in the ANSWER BOOK.

4.1 In terms of Section 4 of the Drugs and Drug Trafficking Act (140 of 1992), possession includes … or … (2)

4.2 In terms of Section 1 of the National Road Traffic Act (93 of 1996), any road, street, thoroughfare or place which is commonly used by the public, or any section thereof, or to which the public or any section thereof has a right of access, is regarded as a … (1)

4.3 In terms of the Drugs and Drug Trafficking Act (140 of 1992), dealing also includes … and … (2)
[5]

TOTAL SECTION A: 25

SECTION B

QUESTION 5

5.1 Explain the term *judicial precedent*. (4)

5.2 Define the term *punishment,* and provide TWO purposes of punishment with a short explanation of each. (6)

5.3 With regard to the doctrine of common purpose, name any THREE of the requirements to be met for there to be a common purpose. (3)

5.4 Occupying the driver's seat of a stationary vehicle with the engine running while under the influence of intoxicating liquor or a narcotic drug, constitutes the statutory crime of driving under the influence of liquor.

Write only 'Yes' or 'No'. (1)
[14]

QUESTION 6

In order to determine whether a crime had been committed, the THREE major elements of crime need to be analysed, namely:

- The act
- Unlawfulness
- Criminal responsibility

Answer the questions below regarding the elements of crime:

6.1 Name the TWO requirements for an act to be regarded as an element of crime. (2)

6.2 Provide an example of an exception to each requirement named in QUESTION 6.1. (2)

6.3 Define the term *causation/causal link*. (2)

6.4 Explain and differentiate between *factual causation* and *legal causation*. (5)

6.5 Intention is a type of Mens Rea, and it manifests in three forms.

Briefly explain the THREE forms of intention, AND provide an example of each. (3 × 3) (9)

[20]

QUESTION 7

Study the following scenario and answer the questions.

Peter, Pule, Siphiwe, Xola, Godfrey and Costa work together for a construction company.

Pule won a lot of money from Peter and Siphiwe by cheating in a betting game. Peter and Siphiwe both decided to murder Pule at a remote part of the construction site. They decided that Peter would pin Pule against the wall while Siphiwe stabbed him with a knife.

They recruited Godfrey, the company driver who also had a gripe with Pule, to drive the group to the remote part of the construction site under the pretence that they need to attend to a problem. Godfrey would also slip Siphiwe a knife when he disembarked the vehicle.

On the day of the murder, Peter, Pule, Siphiwe, Xola and Costa got into the vehicle driven by Godfrey. Godfrey drove them to the remote part of the construction site and passed Siphiwe the knife as he disembarked.

Peter and Siphiwe quickly pulled Pule around a corner. Peter pinned him against the wall while Siphiwe stabbed him several times in the chest.

Xola, who also had a long-standing issue with Pule, saw what was happening and joined in the attack after Pule was already lethally wounded, but before he died. Xola hit the wounded Pule over the head with a heavy rock. Pule died from the stab wounds.

In the commotion, Siphiwe slipped the knife to Costa who quickly cleaned it and hid it under a pile of rocks. Costa later went back to remove the knife and threw it in a nearby dam.

Identify the following participants, AND substantiate your answers with reference to common purpose where necessary:

7.1 Perpetrator(s)

7.2 Joiner-in

7.3 Accomplice

7.4 Accessory after the fact

(4 × 3) **[12]**

TOTAL SECTION B: 46

SECTION C

QUESTION 8

Read the following extract, and answer the questions:

POLITICIAN BRUCE NIMMERHOUDT IN COURT FOR 'CIRCULATING VOICE NOTE INCITING VIOLENCE'

The case against a West Rand politician accused of inciting violence through a voice note during the country's civil unrest has been postponed for police to investigate any links between him and other imminent arrests.

Bruce Nimmerhoudt, who is a mayoral candidate for his party the Patriotic Alliance (PA) in the West Rand Municipality, appeared in the Roodepoort Magistrate's Court on Monday, where he faces charges of incitement to commit public violence.

[Source: *https://www.news24.com/news24/southafrica/news/unrestsa-politician-bruce-nimmerhoudt-in-court-for-circulating-voice-note-inciting-violence-20210719*]

8.1 Name and define the crime that Mr Nimmerhoudt is charged with. (4)

8.2 Give THREE reasons for prohibiting this crime. (3)
[7]

QUESTION 9

Read the following scenario and answer the questions:

Stan, who is a married man, is a witness in a theft case against Tumi who is accused of stealing a watch from a jewellery store. At the time of the alleged crime, he was in the jewellery store shopping for jewellery for his girlfriend. He saw Tumi trying on the watch and then walking out of the store without paying for it. During the court case, Stan testifies under oath that he did not see Tumi walk out of the store without paying for the watch, because he does not want to admit that he was shopping for jewellery for his girlfriend. Under cross-examination, Stan admitted that he saw Tumi steal the watch and that he was lying previously.

9.1 What crime has been committed by Stan? (1)

9.2 Identify the FIVE elements of this crime, AND illustrate each with information from the above scenario. (10)
[11]

QUESTION 10

Read the following article and answer the questions:

COURT GRANTS BAIL FOR SECURITY GUARD ACCUSED OF KILLING MANGAUNG TEEN DURING PROTEST

A 56-year-old security guard, Abel Lefu Letsela, has appeared before the Bloemfontein Magistrate's Court on charges of culpable homicide for the murder of 14-year-old Jevano Siegel.

Siegel was killed during service-delivery protests in Mangaung, Bloemfontein, on 17 May.

Letsela allegedly discharged his firearm during a protest in Heidedal to scare off protesting residents when the stray bullet struck Siegel.

[Source: *https://www.dailymaverick.co.za/article/2021-05-19-court-grants-bail-for-security-guard-accused-of-killing-mangaung-teen-during-protest/*]

10.1 Compare the crimes of *murder* and *culpable homicide*, and provide examples of each. (8)

10.2 Explain the test for negligence that the court must apply in case of culpable homicide. (3)
[11]

TOTAL SECTION C: 29
GRAND TOTAL: 100

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