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

This question paper consists of 13 pages.

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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. Start each section 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 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 is NOT regarded as a source of South African criminal law?

A Legislation or statutes
B Case law or judicial precedent
C Common law
D Social rules

1.2 Which ONE of the following is NOT regarded as an objective of criminal law?

A To create and maintain an orderly society
B To determine what crime is
C To enhance the authority of the state
D To determine an appropriate punishment for offenders

1.3 Which ONE of the following is NOT an element that needs to be present in order for a crime to be committed?

A An act must have been committed by a human being.
B The act must have been unlawful.
C The person who committed the crime must have been aware that his or her action was unlawful.
D There must have been a contract between the parties.

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

A Retribution
B Revenge
C Prevention
D Deterrence

1.5 Which ONE of the following is NOT a requirement for an act to be regarded as an element of crime?

A The act can be in the form of an omission.
B The act must be performed by a human.
C The act must be aimed at another human.
D The act must be voluntary.

1.6 Conduct is only punishable when it is unlawful. Which of the following conduct is NOT regarded as unlawful?

A The conduct is against the law.
B The person was under a legal obligation or duty to act and he or she did not act.
C There was a valid ground for justification for the act.
D Consent was obtained to commit the crime of high treason.

1.7 Intention means that a person commits an act, knowing the consequences of the act and knowing that the act is a crime and that the consequences also constitute a crime, but commits the act anyway.

Which ONE of the following is NOT a form of intention?

A Direct intention
B Indirect intention
C Negligence
D Eventual intention/Dolus eventualis

1.8 Which ONE of the following is NOT a requirement for attempt?

A The person must have had the intention to commit the crime.
B The person must have agreed with another person to commit the crime.
C The person must have committed some form of an act to implement his or her intention to commit the crime.
D The crime must not have been completed, but must have started.

1.9 Which ONE of the following is NOT a type of attempt?

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

1.10 Which ONE of the following is NOT a requirement to be found guilty of conspiracy?

A The parties must have conveyed their views to one another.
B The parties must have reached an agreement together.
C The parties must have started with the crime, but then abandoned it before completion.
D The parties must have knowingly agreed to commit the crime.

(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 (2.1–2.5) in the ANSWER BOOK.

2.1 Norms are binding rules that regulate human conduct like morality, ethics, social conventions, etiquette and customs.

2.2 A law is a rule or norm that will result in some form of penalty if broken.

2.3 Public law deals with the relationship between individuals and private law deals with the relationship between the state and the people of that state.

2.4 TWO forms of mens rea are recognised by law: intention and negligence.

2.5 Attempt is defined as an agreement between different persons to commit a crime, or to help to commit a crime or to procure the commission of a crime.

(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	The highest court dealing with criminal and civil matters not set out in the Constitution	A	judicial precedent
3.2	X wants to shoot Y. He shoots at Y but misses.	B	interrupted attempt
3.3	X wants to kill Y. He stabs X where he is lying on his bed, not knowing that X has already died of a heart attack hours before.	C	voluntary withdrawal
3.4	The consequence was brought about by the conduct and the conduct was the cause of the result.	D	chain conspiracy
3.5	X wants to break into Y's house. As he is about to smash a window with a rock, he reconsiders and walks away.	E	Supreme Court of Appeal
3.6	A independently convinces B, C and D to commit a crime with him. B, C and D are not aware of A's agreement with the other two.	F	attempt to do the impossible
3.7	Previous court judgements	G	completed attempt
3.8	X wants to burn down Y's house. He pours petrol under the door. Before he could light the match, he is arrested.	H	causation
3.9	Unlawfully communicating with another with the intention of influencing that person to commit a crime.	I	umbrella spoke conspiracy
3.10	A agrees with B to commit a crime. B then recruits C to join in. C then involves D.	J	implied conspiracy
		K	incitement
		L	Constitutional Court
		M	judicial jurisdiction

(10 × 1) **[10]**

QUESTION 4

Complete the following sentences by writing only the missing word or words next to the question number (4.1–4.5) in the ANSWER BOOK.

4.1 A person who commits a crime together with another person, is called a …

4.2 The person in a group of perpetrators who plays the leading role in committing a crime is called a …

4.3 A person who uses someone else as an instrument to commit a crime, is called a …

4.4 If a person tries to commit a crime but does not succeed, the person may be guilty of …

4.5 A person who encourages, orders or challenges another person to commit a crime, is guilty of …

(5 × 1) **[5]**

TOTAL SECTION A: 30

SECTION B

QUESTION 5

While Constable Nyanda was inspecting the holding cells while on duty at the police station, he saw Siphiwe, who has been arrested for driving under the influence of liquor, choking on his own vomit. He ignored him, thinking that it would teach Siphiwe a lesson. Siphiwe dies as a result of the choking.

5.1 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 extract from an article that was posted by GroundUp on 1 June 2022 and answer the question below:

GroundUP

Self-defence vs murder: Concourt overturns conviction of man who killed police officer

1 June 2022

A man sentenced to life imprisonment in 2019 for the murder of a police officer and the attempted murder of another, has been freed after the Constitutional Court ruled that the judge who convicted him had made an error in law.

Tuta stabbed both police officers in early March 2018. One succumbed to his injuries and the other was hospitalised for 34 weeks and suffered a severely injured eye which has affected his sight.

During the subsequent trial in the Pretoria High Court, Tuta admitted stabbing both with a flick knife but claimed he did not know they were police officers. They had been driving an unmarked car and were wearing civilian clothing. He said they had chased him and he acted in self-defence.

[Source: *www.groundup.org.za/article/self-defence-vs-murder-concourt-overturns-conviction-man-who-killed-police-officer/*]

Grounds of justification are grounds that cause the unlawfulness of an act to be excluded.

Name FIVE such grounds of justification and give ONE example of each. (5 + 5) **[10]**

QUESTION 7

Read the following extract from an article that appeared in the *Mail & Guardian* of 1 April 2022 and answer the question below:

Mail & Guardian

"The devil is a liar": Bathabile Dlamini pays for perjury

Tunicia Phillips
1 Apr 2022

Dlamini, the former minister of social development, was found guilty of perjury earlier in March for lying under oath about her role in the 2018 South African Social Security Agency (Sassa) grant payments debacle during an inquiry.

[Source*: www.//mg.co.za/top-six/2022-04-01-the-devil-is-a-liar-bathabile-dlamini-pays-for-perjury/*]

Compare the crime of common-law perjury to the crime of defeating or obstructing the course of justice by referring to the elements of these two crimes, and provide ONE example of each crime. **[10]**

QUESTION 8

Answer the following short questions.

8.1 Differentiate between criminal law and civil law (private law) and give an example of each. (6)

8.2 State TWO reasons for prohibiting incitement to commit a crime. (2)
[8]

TOTAL SECTION B: 33

SECTION C

QUESTION 9

Read the following extract from an article that was published by the *Daily Maverick* on 2 June 2022 and answer the questions below:

Daily Maverick

Why Ramaphosa (apparently) kept mum about multimillion-dollar robbery at his farm

Ferial Haffajee

2 Jun 2022

……. Fraser's affidavit first revealed that a domestic worker was allegedly acting in cahoots with criminals who had invaded his farm on the weekend he was in the Ethiopian capital. He submitted camera footage showing that the robbers had gained access to the farmhouse via a window just after 10.17pm on one of the nights Ramaphosa was in Addis. His home is in Hyde Park, Johannesburg, but a full-time staff takes care of the farm.

The thieves made off with millions of US dollars, Fraser revealed.

[Source: *www.dailymaverick.co.za/article/2022-06-02-why-ramaphosa-apparently-kept-mum-about-multimillion-dollar-robbery-at-his-farm/*]

9.1 Did the publication correctly classify this crime as a "robbery"? (1)

9.2 If not, which crime(s) was/were committed here? (2)

9.3 Substantiate your answer above by comparing the definition(s) of the crime(s) you provided in QUESTION 10.2 to the definition of robbery and the scenario in the article above. (12)

[15]

QUESTION 10

Study the scenario below and answer the questions.



While out with his friends, Justin drank eight beers and 12 shots of Tequila. At 23:00, he staggered out of the club and got into the driver's seat of his car that was parked in the club's parking lot. He did not realise that all four wheels of his car had been stolen and his car was standing on bricks. He started the engine to drive but fell asleep on the steering wheel with the engine running.

10.1 Of which statutory offence is Justin guilty, if any? (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 Justin 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:



Costa, **Pete, Pule** and **Tumi** are members of the Majestic crime gang.

To prove their loyalty to their gang leader, **Costa** and **Pete** both decided to murder **King**, the leader of the opposing gang, behind a tavern in their neighbourhood frequented by **King**. They decided together that **Costa** would pin **King** against the wall while **Pete** stabbed him with a knife.

They convinced another gang member, **Tumi**, to flirt with **King** inside the tavern, ensure that he drank too much and then lure him outside behind the tavern with the promise of sex.

On the evening of the murder, **Tumi** made sure that she danced with **King** all night and served him copious amounts of alcohol. **Costa** and **Pete** waited outside at the back of the tavern.

Tumi lured the drunken **King** outside where **Costa** and **Pete** grabbed him. **Costa** pinned **King** against the wall while **Pete** stabbed him several times in the chest.

At the same time, another patron, **Zola**, went out back to get some fresh air and saw what was happening. **Zola** had a long-standing issue with **King** and joined in the attack after **King** had already been lethally wounded, but before he died. **Zola** hit the wounded **King** over the head with a heavy rock. **King** died from the stab wounds.

Back inside the tavern, **Pete** slipped the knife to **Pule**, another gang member, who took it home, cleaned it and threw it in a nearby dam.

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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 (3)

11.4 Accessory after the fact (3)

[12]

TOTAL SECTION C: 37
GRAND TOTAL: 100

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