higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

LAW PROCEDURES AND EVIDENCE
NQF LEVEL 4

(8021004)

16 November 2023 (X-paper)
09:00–12:00

This question paper consists of 8 pages.

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DEPARTMENT OF HIGHER EDUCATION AND TRAINING
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)
LAW PROCEDURES AND EVIDENCE
NQF LEVEL 4
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

Indicate whether the following statements are TRUE or FALSE by writing only 'True' or 'False' next to the question number (1.1–1.10) in the ANSWER BOOK.

1.1 Section 84(2)(j) of the Criminal Procedure Act 51 of 1977 gives the President the authority for pardoning.

1.2 A juvenile below the age of 14 years cannot apply for leave to appeal.

1.3 The Chief Justice is the highest authority of courts.

1.4 To hear the evidence of witnesses is one of the reasons for an accused to be present in court.

1.5 A judge can issue a seizure under a search warrant.

1.6 A police official who acts without authority to search and seize is guilty of an offence.

1.7 A juvenile arrested can be released in the care of the parent.

1.8 The court can order that a fine be paid in instalments.

1.9 The period for extension for a petition is 14 days.

1.10 Sections 58 to 71 of the Criminal Procedure Act 51 of 1977 deal with the aspects of a trial.

(10 × 1) **[10]**

QUESTION 2

Choose the correct word(s) from those given in brackets. Write only the word(s) next to the question number (2.1–2.10) in the ANSWER BOOK.

2.1 (*S v Zinn 1969(2) SA 537 (A)*/S v *Roman and Others 1994(1) SACR 436 (A)*) court ruled the accused cannot waive the right to be present in criminal proceedings.

2.2 Section (20/21) of the Criminal Procedure Act 51 of 1977 allows the police to seize three classes of articles.

2.3 (Capital punishment/Reprimand) is an appropriate sentence in terms of the Criminal Procedure Act 51 of 1977.

2.4 Section (309/390) of the Criminal Procedure Act 51 of 1977 deals with appeals by a person convicted in a lower court.

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2.5 The (high court/regional court) can review powers in respect of quasi-judicial bodies.

2.6 (14/21) days is the period to institute a petition after refusal for leave to appeal.

2.7 The (Bill of Rights/Criminal Procedure Act) lays down the rules during a trial.

2.8 The (crime/triad) is one of the three considerations when imposing a sentence.

2.9 A (judge/magistrate) is the only one who can give a written reason of a notice of appeal.

2.10 The execution of a sentence will (be suspended/not be suspended) pending review.

(10 × 1) **[10]**

QUESTION 3

Choose a description from COLUMN B that matches an item 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	Admission of guilt fines	A	search of arrested person and seizure of article
3.2	J32	B	in a place of safety
3.3	Section 20 of the Criminal Procedure Act 51 of 1977	C	of its own accord
3.4	Section 23 of the Criminal Procedure Act 51 of 1977	D	not be repetitive
3.5	Schedule 6 crime	E	subpoena in criminal proceedings
3.6	Release of juvenile	F	the *audi alteram partem* rule
3.7	*Mero motu*	G	punishment in respect of a juvenile
3.8	*S v Gerbers* 1997(2) SACR 601 (SCA)	H	allow the accused to not have to appear in court
3.9	*S v Nkosi* 2000(2) SACR 709 (A)	I	indecent assault
3.10	*S v Makriel* 1986(3) SA 932 (C)	J	three classes of articles may be seized
		K	the right to bring an action
		L	give evidence by means of closed-circuit television

(10 × 1) **[10]**

TOTAL SECTION A: 30

SECTION B

QUESTION 4

4.1 Explain arrest without a warrant by a private person in terms of Section 42 of the Criminal Procedure Act 51 of 1977. (6)

4.2 Discuss the interactive roles of the Bill of Rights and the Law with the limitations to criminal procedural powers. (7)

4.3 Describe the powers of a police official when resistance against entry or search is encountered as stipulated in Section 27 of the Criminal Procedure Act 51 of 1977. (5)

4.4 Explain one of the requirements for a confession to be admissible as stipulated in Section 217 of the Criminal Procedure Act 51 of 1977. (2)

[20]

TOTAL SECTION B: 20

SECTION C

QUESTION 5

5.1 Study the information below and answer the questions.

MAN TO SPEND 20 YEARS IN JAIL FOR KILLING MOTHER OF HIS CHILD

DURBAN: 26 May 2022 – On 7 July 2019 at 06:00, Noliswa Nhleko (22) was at her place of residence on Mthelekisi Road in Ntuzuma with her four-year-old daughter, when the father of her daughter, Mduduzi Mdukani (35), broke the door and window, and assaulted her with a piece of timber and a concrete pole on the face and head following a domestic dispute. Her daughter, who witnessed the incident, ran to her grandmother to seek help. The mother succumbed to her injuries at the scene.

A case of murder was opened for investigation at Ntuzuma police station. Mdukani left the area and went into hiding in Gauteng. In September 2019, police proceeded to Gauteng and arrested the accused for murder. He appeared in the Ntuzuma Magistrate's Court and was remanded to custody. On 20 May 2022, he was sentenced to 20 years imprisonment by the Ntuzuma Regional Court.

[Adapted from: *The SAPS Media, 26 May 2022*]

5.1.1 Discuss the sentencing jurisdiction of a regional court. (3)

5.1.2 Explain the form of evidence that was used against the accused when he was on trial. (3)

5.2 Explain *Presumption of Innocence* as stipulated in Section 35(3)(h) of the Constitution of the Republic of South Africa, of 1996. (4)

5.3 Specify the requirements that must be met concerning giving, or the furnishing of, evidence via closed-circuit television. (5)

[15]

QUESTION 6

Study the information below and answer the questions.

SUSPECT ARRESTED FOR POSSESSION OF STOLEN MOTOR VEHICLE

Nelspruit: 19 May 2022 – Thursday 19 May 2022 at about 10:30 am at Komatipoort.

According to the report, members of the police from the Komatipoort K9 Unit were busy with their normal duties, and whilst conducting patrols at Hectorspruit, they spotted a suspicious vehicle, a silver grey Jaguar XF with two male occupants.

The said car reportedly had Mozambican registration number plates, but when the astute members verified its authenticity, they realised that it was reported stolen in January this year (2022) at Meyerton (in Gauteng Province). The two, aged 34 and 42 respectively, were then arrested and charged with possession of suspected stolen property. The preliminary investigation has since revealed that the two suspects are Mozambican citizens with passports and when they were caught by the police on the N4, they were heading towards Mozambique. The two will have their first court appearance at the Komatipoort Magistrate's Court tomorrow, 20 May 2022, facing the said charges.

[Adapted from: *The SAPS Media, 19 May 2022*]

6.1 Explain the procedure to be followed in terms of Section 50 of the Criminal Procedure Act 51 of 1977 in arresting the two suspects. (5)

6.2 Explain the statement "the two will have their first court appearance". (4)

6.3 Discuss the grounds to be established where the interests of justice do not permit the release of the accused on bail in terms of Section 60(4) of the Criminal Procedure Act 51 of 1977. (6)

[15]

TOTAL SECTION C: 30

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SECTION D

QUESTION 7

7.1 Explain what the State has to prove in order to secure a conviction of an offence where a person escapes from lawful custody in terms of Section 51 of the Criminal Procedure Act 51 of 1977. (4)

7.2 Discuss the procedure to be followed by the court if the accused pleads guilty in a magistrate's court to a charge justiciable in a superior court in terms of Section 121 of the Criminal Procedure Act 51 of 1977. (4)

7.3 Describe the type of information that is required by the court before sentencing an accused. (5)

7.4 Discuss the principles of informer's privilege as stipulated in Section 202 of the Criminal Procedure Act 51 of 1977. (7)

[20]

TOTAL SECTION D: 20
GRAND TOTAL: 100

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