higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL LAW
NQF LEVEL 3

(8021003)

14 November 2019 (X-Paper)
09:00–12:00

This question paper consists of 9 pages.

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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 section on a NEW page.
5. Use only blue or black ink.
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 (1.1–1.10) in the ANSWER BOOK.

1.1 Which of the following is NOT a drug in terms of the Drugs and Drug Traffic Act (Act 140 of 1992)?

A Any dependence producing substance
B Any drink containing alcohol
C Any dangerous dependence producing substance
D Any undesirable dependence producing substance

1.2 Which of the following is NOT an element of the unlawful use of drugs?

A The use
B A drug
C Under the influence of a drug
D Intention

1.3 Which of the following is NOT an element of driving under the influence:

A Driving a vehicle or sitting in the driver seat of a motor vehicle with its engine running
B While in possession of a dependence producing substance
C Negligence
D On a public road

1.4 Which of the following would NOT constitute a valid justification for malicious injury to property?

A A legal provision allowing the perpetrator to destroy a trespassing animal
B Necessity, where the perpetrator poisoned his neighbor's aggressive dog to protect himself against a possible future attack
C Consent, where the owner gave the perpetrator permission to destroy his property
D Obeying orders, where a policeman is instructed by his superior to break down a door

1.5 Which of the following is NOT a qualifying requirement for property to be stolen in theft or robbery?

A The property must be moveable.
B You must be able to touch and see the property.
C Someone else must be the owner of the property.
D The property must have a market value.

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1.6 Which of the following conditions will NOT qualify as defence of not being criminally responsible?

A Paltriness
B Mental illness
C Immature age
D Non-pathological criminal inability

1.7 Which of the following is NOT a rule of the principle of legality?

A Novus actus (new law)
B Ius praevium (former law)
C Nulla poena (no penalty)
D Ius strictum (narrow law)

1.8 Which of the following is NOT a norm in society that sometimes influences the writing of laws?

A Politics
B Religion
C Individual morality
D Community mores

1.9 Which of the following is NOT a source of South African criminal law?

A Legislation or statutory law
B Common law
C Judicial precedent
D International law

1.10 Which of the following is NOT a theory of punishment?

A Retributive theory
B Educational theory
C Deterrence theory
D Reformative theory

(10 × 1) **[10]**

QUESTION 2

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

2.1 To use a drug means to do whatever you have to do to get the drug into your body.

2.2 A driver must have caused an accident to be guilty of negligent or reckless driving.

2.3 The legal definition of a public road includes the shoulders of the road.

2.4 Acting on an order may be offered as a ground for justification only when the order was lawful, it was issued by an authorised person and if the perpetrator only did what he/she was ordered to do.

2.5 Vicarious liability means that one person may be held responsible for a crime that was committed by another person.

2.6 Acting on an order may be provided as a ground for justification when a policeman commits a crime while executing an illegal instruction by his superior.

2.7 Criminal law describes the different forms of conduct that are punishable as well as the requirements for each crime.

2.8 Criminal law is a set of rules that protects people against crimes.

2.9 A legal norm is a rule drawn up by a legal authority based on an accepted standard of social behaviour.

2.10 South African law is divided into two groups, namely substantive law and adjective law.

(10 × 1) **[10]**

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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	Unlawfully and intentionally setting fire to another person's immovable property	A	culpable homicide
3.2	Any vehicle that moves by its own power	B	reckless driving
3.3	The conduct of the accused resulted in the criminal consequence of the crime	C	malicious damage to property
3.4	A person who has committed a crime and has been convicted on account of that crime.	D	ground for justification
3.5	A drunk person is sitting in the driver's seat of a motor vehicle stuck in a ditch with the engine running	E	motor vehicle
3.6	A situation where the law considers an act as justified even though it was against the law	F	factual causation
3.7	Driving a vehicle in a way that indicates that the driver does not care for the safety of other people or property	G	arson
3.8	A person who assists in the commission of a crime	H	criminal
3.9	Unlawfully and intentionally setting fire to another person's movable property	I	negligent driving
3.10	Driving in a way that a reasonable person would perceive as potentially harmful to property or people	J	contempt of court
		K	driving under the influence
		L	accomplice

(10 × 1) **[10]**

QUESTION 4

Regarding unlawfulness, choose a term from COLUMN B that matches a description in COLUMN A. Write only the letter (A–I) next to the question number (4.1–4.5) in the ANSWER BOOK.

COLUMN A		COLUMN B	
4.1	Acting to protect yourself, another person or property	A	private defence
4.2	Acting while doing your job and official duties	B	paltriness
4.3	The court feels that your act is not serious enough to be a crime	C	spontaneous agency
4.4	Acting to protect someone else in their absence	D	official capacity
4.5	The act of using force to stop an attack	E	acting on an order
		F	right of chastisement
		G	consent
		H	impossibility
		I	necessity

(5 × 1) **[5]**

QUESTION 5

Complete the following sentences by filling in the missing word or words. Write only the word or words next to the question number (5.1–5.5) in the ANSWER BOOK.

5.1 Unlawfully and intentionally setting fire to another person's property is called …

5.2 A person who, with the necessary culpability, commits and unlawful act and thereby satisfies all the elements of a crime, is called a …

5.3 The legal term for whether an accused is at fault for a crime that he has committed is …

5.4 Anyone who has committed a crime and has been convicted is called a …

5.5 An act punishable by law, that is forbidden by statute or common law or that injures the public welfare is called a …

(5 × 1) **[5]**

TOTAL SECTION A: 40

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SECTION B

QUESTION 6

Answer the following questions about attempt.

6.1 Define the term *attempt*. (4)

6.2 Name FOUR types of attempt and give an example of each. (8)

[12]

QUESTION 7

7.1 With regard to criminal responsibility, how does a court test mental ability? (3)

7.2 What are the requirements of an act in order to regard it as a crime? (2)

7.3 When is an omission punishable as a type of act? Give one example. (2)

7.4 What is the role of legality in criminal law? (2)

7.5 Name TWO possible reasons for the high crime rate in South Africa. (2)

[11]

QUESTION 8

Answer the following questions about participation.

8.1 Give a brief explanation of the doctrine of common purpose. (2)

8.2 When will a person be regarded as an accomplice? (2)

8.3 What is the difference between an accomplice and a co-perpetrator? (2)

8.4 Name TWO requirements to prove that someone is an accomplice. (2)

8.5 When will a person be regarded as a joiner-in? (3)

8.6 When will a person be regarded as an accessory after the fact? (2)

[13]

TOTAL SECTION B: 36

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SECTION C

QUESTION 9

Does the action depicted in the picture below constitute housebreaking with intent to commit a crime or malicious injury to property? Give reasons for your answer.



[Source: https://ridgetimes.co.za, 20 July 2018]

[10]

QUESTION 10

10.1 Provide a short definition for the crimes *conspiracy* and *incitement*. (2)

10.2 Can a person be found guilty of conspiracy or incitement if the crimes he/she conspired to commit, or was incited to commit, actually take place? Provide as short motivation for your answer. (1)

[3]

QUESTION 11

The following article was published by Eye Witness News on 1 July 2018:

NPA: Duduzane Zuma faces two counts of culpable homicide

PRETORIA – The National Prosecuting Authority (NPA) has revealed that Duduzane Zuma now faces two counts of culpable homicide and was summoned to appear in court next month.

The former president's son collided with a taxi on the M1 highway in 2014 which led to the deaths of Phumzile Dube and Nanki Mashaba.

[Source: http://ewn.co.za/2018/07/03/npa, 1 July 2018]

11.1 Compare the crimes of murder and culpable homicide and provide examples of each. (8)

11.2 Explain the test for negligence the court must apply in case of culpable homicide. (3)

[11]

TOTAL SECTION C: 24
GRAND TOTAL: 100

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