higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL LAW
NQF LEVEL 3

(8021003)

2 March 2018 (X-Paper)
09:00–12:00

This question paper consists of 10 pages.

NCV

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. Write neatly and legibly.

NC(V)

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 the correct legal definition of a criminal?

A A person who committed a crime
B A person who is accused of committing a crime
C A person who committed a crime and has been convicted of it
D A person who plans to commit a crime

1.2 Which ONE of the following is the correct definition for the ius acceptum rule of legality?

A An accused cannot be found guilty of a crime unless his behaviour is recognised by the law as a crime.
B An accused can only be found guilty of a crime if his behaviour was already recognised as a crime at the time it was committed.
C The words describing a crime must be clear.
D The court must interpret the definition of a crime narrowly rather than widely.

1.3 Which ONE of the following questions is used as the test for factual causation?

A Was the life or property of the accused threatened?
B Did the accused know that what he was doing was wrong?
C If the conduct of the accused did not happen, would the criminal consequences still have happened?
D Did the accused find him or herself in an emergency where there was no other option?

1.4 For acting on an order to be accepted as a ground for justification, the order must …

A have been given by a person with a more senior rank.
B have been part of the normal duties of the accused.
C have been given recently.
D have been regarded as a legal order by a reasonable soldier in the position of the accused.

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1.5 Which ONE of the following is NOT a requirement for spontaneous agency as a ground for justification?

A The accused should not have been able to obtain the permission of the complainant.
B At the time of the act, the accused should have believed that the complainant would have wanted him to act.
C The intention of the accused must have been to protect the interest of the complainant.
D The interest of the complainant must have been protected successfully.

1.6 Vicarious liability means …

A the committed act is not serious enough for it to be considered a crime.
B one person can be found guilty of certain statutory crimes committed by another person.
C the conduct of the accused resulted in the criminal consequence.
D the court can only convict a person if the behaviour is recognised as a crime by the law.

1.7 Which ONE of the following is the correct definition of conspiracy?

A At least two persons agree to commit a crime and the crime did not happen.
B One person encourages another person to commit a crime.
C One person helps another person to get rid of the evidence after he committed a crime.
D At least two persons agree to commit a crime and the crime is actually committed.

1.8 Which ONE of the following statements regarding contempt of court is NOT correct?

A The conduct of contempt of court must happen while the court is in session.
B A person can commit contempt of court by publishing information in writing about a pending court case.
C A person can commit contempt of court by writing an insulting letter to a judge about his work.
D Comments that are reasonable, moderate and made with good intention will be regarded as an acceptable ground for justification of contempt of court.

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1.9 Which ONE of the following statements regarding the crime of public indecency is NOT correct?

A The act of public indecency can only be committed in a public place.
B Intention is a requirement for the crime of public indecency.
C To test whether the conduct can be regarded as public indecency, the court needs to asks if the conduct depraved the average person's morals.
D Necessity can be an acceptable ground for justification for public indecency if a naked person flees a burning house.

1.10 Which ONE of the following statements regarding the crime of arson is NOT correct?

A A person commits arson by unlawfully and intentionally setting fire to his own insured house in order to claim from the insurer.
B A person commits arson by unlawfully and intentionally setting fire to his neighbour's car.
C If a person is caught just before he sets someone's house on fire, he can still be charged with arson.
D A person commits arson by unlawfully and unintentionally setting fire to his neighbour's house.

(10 × 1) **[10]**

QUESTION 2

Distinguish between criminal law and other legal rules by placing phrases 2.1–2.5 under the correct heading in the table below:

CRIMINAL LAW	OTHER LEGAL RULES

Draw a similar table in your ANSWER BOOK and write only the number of each phrase in the correct column.

2.1 Directed at the protection of the public interest

2.2 The victim institutes civil action

2.3 Punishment can be in the form of imprisonment

2.4 Protection of individual interest

2.5 Prosecution is done by the state

(5 × 1) **[5]**

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QUESTION 3

Choose a word from COLUMN B that matches a description in COLUMN A. Write only the letter (A–E) next to the question number (3.1–3.5) in the ANSWER BOOK.

COLUMN A		COLUMN B	
3.1	Sexual penetration of another person without consent	A	assault
3.2	Making another person believe that you are about to use force on him	B	accomplice
3.3	Making a false statement under oath during judicial proceedings	C	elements of crime
3.4	A person who helps the perpetrator commits a crime	D	rape
3.5	The parts of a crime definition that must be proven to convict a person	E	perjury

(5 × 1) **[5]**

QUESTION 4

Indicate whether the following statements are TRUE or FALSE. Choose the answer and write only 'true' or 'false' next to the question number (1.1–1.10) in the ANSWER BOOK.

4.1 A norm may be defined as a standard accepted by a particular group of people or society which serves as a measure or yardstick for judging acceptable behaviour.

4.2 The Constitution of South Africa is also a statutory source of our criminal law.

4.3 A crime is any wrongful conduct for which the perpetrator is tried and punished by the state

4.4 If two or more people acted together and their actions together meet all the elements of the definition of a crime, then every one of them would be a co-perpetrator of that crime.

4.5 If you help a person without knowing that the person committed a crime, you are still an accessory after the fact.

4.6 A person commits robbery when they commit theft of property through unlawfully and intentionally using violence or threats of violence.

4.7 Unlawfully and intentionally damaging your own insured property in order to claim from the insurer is not regarded as malicious injury to property.

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4.8 A person commits culpable homicide when they unlawfully and negligently cause the death of another human being.

4.9 A person can commit kidnapping when they unlawfully and intentionally deprive a child's parents or guardians of their control over that child.

4.10 A disused land rover vehicle without a gearbox is a motor vehicle for the purpose of the crime of driving with excessive alcohol in the blood.

(10 × 1) **[10]**

TOTAL SECTION A: 30

SECTION B

QUESTION 5

5.1 There are THREE situations when the court will accept that an accused was dealing in drugs, namely:

- The usual meaning of 'dealing in'
- The wider meaning of 'dealing in' and
- Other situations.

Give ONE example of each situation. (3)

5.2 Identify THREE instances where a person may apply private defence. (3)

5.3 Give a brief description for each of the TWO forms of mens rea. (10)

5.4 Briefly explain the relationship between omission as a form of acting and legal duty. (2)

5.5 One of the requirements for justification on the grounds of necessity is that the act must be proportional to the threat or emergency.

Explain what is meant by this. (2)

[20]

TOTAL SECTION B: 20

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SECTION C

QUESTION 6

Differentiate between the following terms:

6.1 Defeating the course of justice (2)

6.2 Obstructing the course of justice (2)
[4]

QUESTION 7

7.1 The consent given for sexual intercourse can be invalid under certain conditions.

List these conditions in which consent to sex will be invalid. (6)

7.2 A person who breaks into premises may not necessarily be guilty of housebreaking if he or she is entitled to enter those premises at that time.

List FOUR circumstances in which a person is entitled to enter the premises. (4)
[10]

QUESTION 8

Explain what is meant by the following general elements of all road traffic offences:

8.1 Driver (4)

8.2 Vehicle (1)

8.3 Public road (3)
[8]

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QUESTION 9

Crimen Injuria can be committed in two ways namely:

- Violating the dignity of another person
- Violating the privacy of another person.

Discuss each of these two ways of committing Crimen Injuria and give ONE example of each.

9.1 Violating the dignity of another person (5)

9.2 Violating the privacy of another person (3)
[8]

TOTAL SECTION C: 30

SECTION D

QUESTION 10

Read the following extract from an article that was published on the News 24.com website on 28 October 2016 and answer the questions.

PANAYIOTOU, 2 CO-ACCUSED BACK IN DOCK FOR WIFE'S MURDER
By Tammy Petersen, *News24*

Port Elizabeth – Alleged murder mastermind Christopher Panayiotou and his two co-accused are expected back in the Eastern Cape High Court on Friday.

They have pleaded not guilty.

The alleged hitman, Sizwezakhe Vumazonke, died in September.

Jayde, 29, was abducted outside her home in Kabega Park, Port Elizabeth, while waiting for her lift to Riebeeck Park high school. She was found shot dead in a veld outside KwaNobuhle, Uitenhage, the following day.

It is alledged that Christopher Panayiotou, with the assistance of Sinethemba Nenembe and Zolani Sibeko, hired Sizwezakhe Vumazonke to shoot Panayiotou's wife.

[Source: *http://www.news24.com/: 28 October 2016*]

Discuss whether Christopher Panayiotou would be guilty of conspiracy to murder or of murder itself?

If he would be guilty of murder, would he be a co-perpetrator or an accomplice?

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Formulate your discussion under the following headings in the ANSWER BOOK.

10.1	Introduction	(1)
10.2	Applicable definitions and key elements	(15)
10.3	Findings	(4)
		[20]

TOTAL SECTION D: 20
GRAND TOTAL: 100

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