higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL LAW
NQF LEVEL 3

3 March 2020

This marking guideline consists of 7 pages.

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SECTION A

QUESTION 1

1.1 B
1.2 D
1.3 B
1.4 C
1.5 A
1.6 B
1.7 A
1.8 C
1.9 B
1.10 C

(10 × 1) **[10]**

QUESTION 2

2.1 True
2.2 True
2.3 True
2.4 False
2.5 False
2.6 False
2.7 True
2.8 True
2.9 False
2.10 True

(10 × 1) **[10]**

QUESTION 3

3.1 H
3.2 L
3.3 E
3.4 C
3.5 K
3.6 B
3.7 F
3.8 N
3.9 M
3.10 I

(10 × 1) **[10]**

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QUESTION 4

4.1 G
4.2 F
4.3 E
4.4 D
4.5 B

(5 × 1) **[5]**

QUESTION 5

5.1 Malicious injury to property
5.2 Accessory after the fact
5.3 Causation
5.4 Elements
5.5 Incitement

(5 × 1) **[5]**

TOTAL SECTION A: 40

SECTION B

QUESTION 6

6.1 (✓ for the following TWO allowing for learner's own interpretation):
Incitement is:
When **one person encourages another**✓ to **commit a crime**✓ (2)

6.2 (✓ for any THREE of the following allowing for learner's own interpretation):
- The fact that the other person has been easily persuaded is not important.
- The way in which the persuasion has been done is not important.
- There must be another party involved.
- The incitement can be direct or indirect.
- The persuaded party can also be a group of any size.
- The accused must have consciously tried to persuade the other party.
- The accused must have known that the act to be committed is a crime. (3)

6.3 (✓ for the following TWO allowing for learner's own interpretation):
Conspiracy is:
When **at least two people agree**✓ to **commit a crime**✓ (2)

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6.4 (✓ for any TWO of the following allowing for learner's own interpretation):
- There must be a definite agreement to commit a crime.
- There must be more than one person involved.
- There must be an agreement on the exact way in which the crime will be committed.
- If they call off their plans to commit the crime, they will still be guilty of conspiracy. (2)

[9]

QUESTION 7

7.1 **The usual meaning of 'dealing in'**:✓
Example:
A person is literally buying and selling drugs.
Doing business that involves drugs and making money from it.
(✓ for any ONE of these two allowing for learner's own interpretation).

The wider meaning of 'dealing in':✓
Example:
A person is involved in any action related to the making/growing/ transportation/collection of ….
(✓ for any ONE of these five allowing for learner's own interpretation)

Other situations:✓
Example: A person has been found with large quantities of drugs.✓ (6)

7.2 (✓ for the following TWO allowing for learner's own interpretation):
- Driving a vehicle on a public road while under the influence of liquor or drugs
- Sitting in the driver's seat of a motor vehicle on a public road when the engine is running while under the influence of liquor or drugs (2)

7.3 No (1)

7.4 (✓ for each of the following THREE points):
- If two or more people✓ decide to commit a crime
- and they act together✓ to commit the crime
- each person will be held equally responsible✓ for the conduct of the group. (3)

7.5 (✓ for any THREE of the following allowing for learner's own interpretation):
- Political change
- Disruption of family life
- Availability of firearms
- Urbanisation
- Weak criminal justice system
- Poverty
- Unemployment
- Alcohol and drug abuse
- Breakdown of moral standards (3)

[15]

QUESTION 8

8.1 Contempt of court *in facie curiae*
is committed before a judge or magistrate while the court is in session.✓
Example:
- Shouting, swearing or laughing at witnesses or officials
- Being drunk or disorderly in court
- Grabbing or damaging court documents
- Disrupting the court

(✓for any ONE of these allowing for learner's own interpretation)

Contempt of court *ex facie curiae*
is committed when the person is not before a judge or magistrate while the court is in session.✓

Concerning pending cases:✓
Example:
- Publishing or commenting on pending cases
- Bribing or intimidating court officials

(✓for any ONE of these allowing for learner's own interpretation):

Concerning cases that are not pending:✓
Example:
- Distributing negative information on court officials or justice processes
- Sending insulting correspondence to court officials
- Preventing a court official to do their work

(✓for any ONE of these allowing for learner's own interpretation) (7)

8.2 Defeating the course of justice:
Justice must in fact have been defeated.✓

Obstructing the course of justice:
The course of justice was only obstructed, but in the end not defeated.✓
(✓ for any TWO allowing for learner's own interpretation): (2)
[9]

QUESTION 9

(✓ for the following SEVEN allowing for learner's own interpretation):
Legislation:
- Written laws created by government or organs of the state✓
- Once laws are accepted by Parliament, they are called acts/statutes.✓
- The Constitution is the supreme/highest law and contains the Bill of Rights.✓
- All laws must be drawn up in accordance with the Bill of Rights.✓

Common law:
- Those rules not found in statutes.✓
- These are general rules of historic origin, such as Roman or Roman-Dutch law.✓

Judicial precedent:
- Courts must consider decisions made in past cases and apply them to similar situations.✓ **[7]**

TOTAL SECTION B: 40

SECTION C

QUESTION 10

10.1 (✓ for the following FOUR points allowing for learner's own interpretation):
Omission:
- If someone does not act✓
- where there was a legal duty on them to act✓
- and the failure to act causes something to happen.✓

Legal duty is important because
- it places an obligation on a person to act to achieve a desired result or to prevent an undesirable result.✓
- it can place a person in a relationship with another where certain actions are required.✓ (5)

10.2 (✓ for the following THREE allowing for learner's own interpretation):
- Motorists are obliged by law to pay tolls levied by the government.✓
- E-tolls are a way to collect the tolls.✓
- Not paying e-tolls is the failure to do something that is a legal duty✓. (3)

[8]

QUESTION 11

(✓ for the following TWELVE allowing for learner's own interpretation):

11.1 A person commits murder when he or she unlawfully✓ and intentionally✓ causes the death✓ of another human being.✓ (4)

11.2 No✓
- Private defence may be accepted only as a ground of justification for murder if the act was in response to an attack or imminent attack.✓
- Ellen Pakkies strangled her son while he was asleep and not while he attacked her.✓ (3)

11.3 No✓
- Necessity may be accepted only as a ground of justification if the act was in proportion to the threat.✓
- Killing her son while he was asleep was not in proportion to a threat to Ellen Pakkies.✓ (3)

11.4 Mental illness✓
At the time of the murder, Ellen Pakkies did not have the mental ability to realise that her conduct was wrong.✓ (2)

[12]

TOTAL SECTION C: 20
GRAND TOTAL: 100

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