higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL LAW
NQF LEVEL 3

(8021003)

3 March 2020 (X-paper)
09:00–12:00

This question paper consists of 10 pages.

217Q1S2003

Copyright reserved

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 blue or black pen.
6. Write neatly and legibly.

Copyright reserved

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 one of the following cannot be offered as grounds to avoid criminal responsibility?

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

1.2 A person who assists another person after that person has committed a crime is called …

A a secondary.
B an accomplice.
C a perpetrator.
D an accessory after the fact.

1.3 A joiner-in is a person who …

A helps another person to commit a crime even though his or her actions do not meet all the elements in the definition of the crime.
B does not share the common purpose of the attackers, but joins in the attack after the victim was lethally wounded and inflicts a wound that does not hasten the victim's death.
C helps the perpetrator after the crime was committed to prevent the perpetrator from being caught.
D gets another person to commit a crime for him or her.

1.4 A person who helps another person to commit a crime is called a(n) …

A perpetrator.
B accessory after the fact.
C accomplice.
D assistant.

1.5 Which one of the following is not an element of driving under the influence?

A Recklessly
B On a public road
C A vehicle
D Sitting in the driver seat of a vehicle when its engine is running

Copyright reserved

1.6 Which one of the following constitutes valid consent for penetration in terms of the crime of rape?

A A girl with Down's syndrome agrees to have sex with a man.
B A slightly drunk man agrees to have sex with another man he met in a bar.
C A 10-year-old girl agrees to have sex with her boyfriend.
D A terrified woman did not protest out loud when a man had sex with her.

1.7 Which one of the following does not qualify as 'driving a vehicle' in relation to road traffic offences?

A Sitting in the driver seat of a stationary vehicle with the engine running
B Steering a vehicle rolling downhill without the engine running
C Steering a pushed vehicle through the open driver's window
D Steering a vehicle that is being towed

1.8 Which one of the following is not grounds for justification for an unlawful act?

A Private defence
B Acting on an order
C Causation
D Spontaneous agency

1.9 Unlawfulness means …

A that the person has a tendency to break the law.
B what the person did in committing the crime was against the law.
C what the person did was the cause of the crime.
D that the law is not fair or just.

1.10 When at least two people agree to commit a crime, they commit …

A perjury.
B defeating the course of justice.
C conspiracy.
D incitement.

(10 × 1) **[10]**

QUESTION 2

Indicate whether the following statements are TRUE or FALSE by writing 'True' or 'False' next to the question number (2.1–2.10) in the ANSWER BOOK. Give ONE reason for each answer.

2.1 Vicarious liability does not apply to common-law crimes, but only to certain statutory crimes.

2.2 A person can only be an accessory after the fact if he or she acted after the crime has been committed.

2.3 The norms of society that influence the writing of laws are based on religion, individual morality and community mores.

2.4 Unlawfully and intentionally damaging your own insured property in order to claim the property's value from the insurer constitutes arson.

2.5 A newly created crime can operate backwards to make conduct that was lawful at the time unlawful because a new law has been passed.

2.6 Conspiracy is when one person encourages another to commit a crime.

2.7 The principle of legality prescribes that a person may be punished only for committing a crime if that crime was already a law before the crime was committed.

2.8 A joiner-in can be convicted only of attempt to commit the crime.

2.9 Attempt to commit crime is when a person has made all the preparations to commit a crime, but decide to call it off.

2.10 When a person who provides a gun to a robber to enable him to commit a robbery the person who provided the gun although he/she is not present is an accomplice.

(10 × 1) **[10]**

QUESTION 3

Choose a term from COLUMN B that matches a description in COLUMN A. Write only the letter (A–P) next to the question number (3.1–3.10) in the ANSWER BOOK.

COLUMN A		COLUMN B	
3.1	An accused cannot be found guilty of a crime unless the law recognises his or her behaviour as a crime	A	perpetrator
3.2	The accused made all the preparations to commit a crime and started to carry it out, but someone stopped him/her before the action was completed	B	voluntary withdrawal
3.3	A person who does not share the common purpose of the attackers, but joins in after the attack when the victim was lethally wounded and inflicts another wound that does not hasten the victim's death	C	principle of common purpose
3.4	If two or more people act together to commit a crime, they will be held equally responsible	D	an offence or a crime
3.5	The act of using force to stop someone attacking you, your property or someone else	E	joiner-in
3.6	In the process of committing a crime the perpetrator decided to stop	F	criminal
3.7	A person committed a crime and has been convicted	G	accused
3.8	A person who helps another to commit a crime but is not present on the scene when it happened	H	ius acceptum rule of legality
3.9	A person is judged to be guilty of a crime committed by another	I	completed attempt
3.10	A person prepared to commit a crime, started it, but did not complete it	K	private defence
		L	interrupted attempt
		M	vicarious liability
		N	accomplice
		O	crimen injuria
		P	culpable homicide

(10 × 1) **[10]**

Copyright reserved

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	The law was broken because it was at that point not possible to act according to the law	A	paltriness
4.2	The law was broken, but the victim agreed that the perpetrator could do what he/she did	B	spontaneous agency
4.3	The right of a parent to use corporal punishment on their children in a reasonable way	C	official capacity
4.4	The law was broken while obeying someone in a position of authority	D	acting on an order
4.5	The law was broken in the process of protecting someone else's interests in their absence	E	right of chastisement
		F	consent
		G	impossibility
		H	necessity
		I	private defence

(5 × 1) **[5]**

QUESTION 5

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

5.1 Unlawfully and intentionally damaging property belonging to another person is called …

5.2 … is when a person helps the perpetrator after the crime has been committed with the intention to prevent the perpetrator from being caught.

5.3 … is the behaviour or conduct of the accused which caused the criminal consequence or crime.

5.4 In order for a person to be regarded as the perpetrator of a crime, his/her conduct must meet all the … of the definition of the crime.

5.5 If one person encourages another person to commit a crime, he/she is guilty of …

(5 × 1) **[5]**

TOTAL SECTION A: 40

Copyright reserved

SECTION B

QUESTION 6

Answer the following questions about incitement and conspiracy:

6.1 Explain the term *incitement*. (2)

6.2 Name THREE requirements to prove incitement. (3)

6.3 Explain the term *conspiracy*. (2)

6.4 Name TWO requirements to prove conspiracy. (2)
[9]

QUESTION 7

7.1 Name the THREE circumstances under which the court will accept that an accused was dealing in drugs and give an example of each. (2 × 3) (6)

7.2 Which TWO actions can constitute the offence of driving under the influence? (2)

7.3 Can the crime of arson be committed in respect of moveable property? (1)

7.4 Explain the principle/doctrine of common purpose. (3)

7.5 Name THREE possible reasons for the high crime rate in South Africa. (3)
[15]

QUESTION 8

Answer the following questions about crimes against the administration of justice.

8.1 Differentiate between contempt of court *in facie curiae* and contempt of court *ex facie curiae* with examples. (7)

8.2 Differentiate between *defeating the course of justice* and *obstructing the course of justice.* (2)
[9]

QUESTION 9

Discuss the sources of South African law under the following headings:

- Legislation (4)
- Common law (2)
- Judicial precedent (1)

[7]

TOTAL SECTION B: 40

Copyright reserved

SECTION C

QUESTION 10

The following is an extract from an article published by Businesstech on 14 March 2019:

Sanral is going after motorists who don't pay their e-tolls – here's why you can't ignore them

14 March 2019

The South African National Roads Agency (Sanral) is pushing ahead with its plan to obtain default judgements against motorists who do not pay their e-tolls, according to civil society group Outa…….

Staff Writer

[Source: https://businesstech.co.za/news/motoring/305158/sanral-is-going-after-motorists-who-dont-pay-their-e-tolls-heres-why-you-cant-ignore-them/, 14 March 2019]

10.1 Define *omission* is and explain why legal duty is an important part of omissions. (5)

10.2 Why is the conduct of the motorists in the article an example of omission? (3)
[8]

QUESTION 11

Read the following extract from an article that was published by IOL on 14 December 2012 and answer the questions.



Picture: *Mxolisi Madela*

Cape Town. Ellen Pakkies, 47, who intends pleading guilty to the murder of her son Adam, 20, wanted her trial finalised as soon as possible. Pakkies was released on R1 000 bail after she handed herself over to police on September 12 last year, the same day her son was found murdered. The community collected funds to pay her bail and raised no objections to her awaiting trial at home.

The Lavender Hill mother killed her abusive, tik-addicted son, Adam, in 2007.

Pakkies strangled Adam to death in his sleep, after suffering physical and mental abuse at his hands for many years.

At her trail, psychiatrists testified that she suffered from Dissociation Disorder and Post-traumatic Stress Disorder due to years of abuse.

[Source: *https://www.iol.co.za/news/ellen-pakkies*, 14 December 2012]

11.1 Define the crime of *murder*. (4)

11.2 Would private defence be a relevant ground of justification in this case? Substantiate your answer. (3)

11.3 Would necessity be a relevant ground of justification in this case? Substantiate your answer. (3)

11.4 Which condition influenced the criminal responsibility of Ellen Pakkies in this case and how? (2)
[12]

TOTAL SECTION C: 20
GRAND TOTAL: 100

Copyright reserved