higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

CRIMINAL LAW
NQF LEVEL 3

(8021003)

13 November 2018 (X-Paper)
09:00–12:00

This question paper consists of 8 pages.

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TIME: 3 HOURS
MARKS: 150

INSTRUCTIONS AND INFORMATION

1. Read ALL the questions carefully.
2. Answer ALL questions in SECTION A, B and C.
3. Answer ONE question in SECTION D.
4. Number the answers according to the numbering system used in this question paper.
5. Leave a space and rule off across the page on completion of each question.
6. Write neatly and legibly.

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SECTION A

QUESTION 1

Various options are provided 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 Choose the correct statement. Substantive law is made up of:

A legal rules
B internal rules
C moral and ethical rules
D A, B and C

1.2 Choose the correct statement:

A Possession and use of drugs are not separate crimes.
B Imprisonment is the only punishment for use of drugs.
C Intention is one of the elements of dealing in drugs.
D All the above

1.3 Choose the correct statement:

A Housebreaking alone is not a crime.
B Breaking in means removing an obstruction to entry.
C Moving a curtain amounts to entering a house.
D A & B.

1.4 Choose the correct statement:

A An act of consensual sexual penetration by an adult with a child between 12 and 16 years is a crime.
B A person below the age of 12 can give consent.
C Public indecency can also occur in a private place.
D All the above

1.5 Choose the correct statement:

A The court may not take into account the fact that one is a first-time offender.
B A minimum sentence for murder is 10 years.
C The death penalty is unconstitutional.
D None of the above

1.6 Choose the correct statement:

A A norm is used for judging acceptable behaviour.
B A norm must be followed by a group or society.
C A norm indicates what should happen if it is not complied with.
D All of the above

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1.7 Choose the correct statement:

A A provincial act is not a statute.
B The Constitution is a common law source of criminal law.
C A municipal bylaw is a statute.
D A and C

1.8 Choose the correct statement:

A An omission may be punished as a crime.
B Unlawful conduct alone is sufficient to be guilty of an offence.
C Legal justification is not an excuse for unlawfulness.
D None of the above

1.9 Choose the correct statement:

A Direct intention means that a person does not aim to bring about an unlawful consequence.
B Negligence is another form of culpability.
C The standard form of negligence is the same as of intention.
D B and C

1.10 Choose the correct statement:

A Consent to assault is a justification.
B One of the elements of assault is negligence.
C A person threatening to assault another may be guilty of attempted assault.
D A, B and C

(10 × 1) **[10]**

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QUESTION 2

Choose a description from COLUMN B that matches a/an word/item in COLUMN A. Write only the letter (A–J) next to the question number (2.1–2.10) in the ANSWER BOOK.

COLUMN A		COLUMN B	
2.1	Common law	A	it means the conduct of the accused was the cause of the consequence
2.2	Causation	B	when at least two people agree to commit a crime
2.3	Punishment	C	the set of basic laws and principles by which a country is governed
2.4	Remedy	D	a law or set of laws made by an authorised person or legal authority, such as parliament
2.5	Legislation	E	an illegal action or crime
2.6	Conspiracy	F	when one person encourages another person to commit a crime
2.7	Incitement	G	a collection of legal rules that has developed over time from customs from older legal systems and from decisions of judges
2.8	Constitution	H	the solution that the law gives for a problem
2.9	Dignity	I	something that is done to make someone suffer because they have broken the law
2.10	Offence	J	it includes self-respect and peace of mind

(10 × 1) **[10]**

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QUESTION 3

Complete the following sentences by using the words provided in the list below. Write only the word(s) next to the question number (3(a)–(e)) in the ANSWER BOOK.

very quickly; reasonable; statutes; unlawful; public views; conduct; governance; attacker; executed; legally

Our law recognises that one's (a) ... is *justified* and therefore *lawful* in private defence when, in response to an (b).... imminent or commenced attack upon a (c) ... protected interest, one resorts to the use of necessary and (d) ... force against the (e)...

(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 (4.1–4.5) in the ANSWER BOOK.

4.1 Factual causation asks whether the conduct of the accused caused the crime.

4.2 Criminal law deals with crimes committed against individuals, society, and the administration of justice or against the state.

4.3 All crimes committed out of South Africa are not punishable.

4.4 Procedural law is divided into formal law and criminal law.

4.5 Spontaneous agency is when I act to protect my own interests.

(5 × 1) **[5]**

TOTAL SECTION A: 30

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SECTION B

QUESTION 5

Outline the requirements that must be met for impossibility to be a ground of justification for not doing something. **[10]**

QUESTION 6

6.1 Discuss the defence of mental illness. (10)

6.2 List the elements of public indecency. (5)
[15]

TOTAL SECTION B: 25

SECTION C

QUESTION 7

7.1 Explain a *co-perpetrator*. (10)

7.2 Define *legal intention*. (6)

7.3 Explain 'dealing in' relating to drugs. (9)
[25]

TOTAL SECTION C: 25

SECTION D

QUESTION 8

Read the following scenario and answer the questions.

Corné went to police station to lay a complaint of domestic violence against her husband, Mxwakhe. Mzwakhe, came running to the police station and, without saying a word, hit his wife with a knobkierie in front of sergeant Moloi. She fell and died.

8.1 Did Sergeant Moloi have a duty to act or not? Justify your answer. (10)

8.2 On the charge of murder, Mzwakhe alleges that he was drunk and did not know what he was doing. Give Mzwakhe legal advice. (10)
[20]

OR

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QUESTION 9

Read the following extract from a newspaper and answer the questions.

Murder

Around 50 people are murdered in South Africa each day. The murder rate has increased by an order of magnitude in South Africa during the last 40 years.
'How dangerous is South Africa?' BBC News 17 May 2010.

9.1 Outline the elements of murder. (4)

9.2 In the light of the above, citizens have the right to life and may defend themselves when attacked.

Name THREE situations in which private defence may be applied as a ground of justification. (3 × 2) (6)

9.3 Discuss unlawfulness as an element of the crime of murder. (10)
[20]

TOTAL SECTION D: 20
GRAND TOTAL: 100

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