higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

LAW PROCEDURES AND EVIDENCE
NQF LEVEL 4

(8021004)

3 December 2020 (X-paper)
09:00–12:00

This question paper consists of 8 pages.

267Q1N2003

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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 question on a new page.
5 Use only a black or blue pen.
6. Write neatly and legibly.

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SECTION A

QUESTION 1

Indicate whether the following statements are TRUE or FALSE by writing only 'True' or 'False' next to the question number (1.1–1.10) in the ANSWER BOOK.

1.1 The Bill of Rights may also be amended by legislation adopted by a two-thirds majority of Parliament.

1.2 Presumption of innocence means innocent until properly convicted by a court.

1.3 The accused must be in court to adduce and challenge evidence.

1.4 A warrant of arrest may be executed by a magistrate, justice, police official or correctional official.

1.5 A petition is when the accused applies to the Judge President of the high court how has jurisdiction, when his/her application for condonation, for further evidence, or leave to appeal was refused by a lower court.

1.6 Evidence is proof of a fact.

1.7 Our law recognises FOUR types of privileges.

1.8 The person effecting or carrying out the arrest must, at a convenient time, inform the arrested person of the reason for the arrest.

1.9 Section 25 of the Criminal Procedure Act gives the police powers to enter premises.

1.10 In the case of *Tiro* 1951 (3) SA 390 (T), the court held that it was no offence to flee if there is only a threat of arrest.

(10 × 1) **[10]**

QUESTION 2

Complete the following sentences by writing only the missing word or words next to the question number (2.1–2.10) in the ANSWER BOOK.

Mokoa 1985(1) SA 350 (O); *Cyster* 1999(2) SACR (C); 43; 20; 67; quasi-judicial; Law of Criminal Procedure; three; 4; rehabilitation; irregularity; integration; *Vezi* 1963(1) SA 9 (N)

2.1 … in reference to Act 51 of 1977 prescribes how the law should be applied after the state becomes aware of a crime.

2.2 … differs from the normal, accepted way of doing things.

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2.3 A warrant of arrest can be issued in terms of section … of the Criminal Procedure Act 51 of 1977.

2.4 Section … of the Criminal Procedure Act 51 of 1977 makes provision for the state to seize certain articles.

2.5 Helping an offender to adapt his behaviour to fit back into society is called …

2.6 The high court possesses a power of review in respect of … bodies.

2.7 According to section … of the South African Police Service Act 68 of 1995 is it an offence to resist a police official in the exercise of his powers.

2.8 In the case of … it was held that the accused must be informed that the case can proceed in his absence and of the possible prejudice.



2.9 Articles that may be seized are divided into … classes.

2.10 In … the court ruled that an appeal could only be lodged after conviction.

(10 × 1) **[10]**

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QUESTION 3

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

COLUMN A		COLUMN B	
3.1	Self-incriminating	A	where gambling machines can be changed to amusement machines
3.2	Adduce	B	unconditional release
3.3	Closed-circuit television	C	a police official may refuse to answer relevant questions
3.4	Urgent matters	D	command to delay, postpone or stop proceedings
3.5	Search warrant	E	to give reasons and examples as proof or evidence
3.6	Full pardon	F	taking an article in possession
3.7	Section 202 of the Criminal Procedure Act	G	behaviour that is polite and correct
3.8	Suspension order	H	implying that you yourself are guilty, or spoiling your own reputation
3.9	Propriety	I	an order by an authority to look for specified articles at a specified address
3.10	Seizure	J	instead of a child complainant appearing in court
		K	an act which also prescribes procedures for search and seizure
		L	look or probing for articles
		M	pardon

(10 × 1) **[10]**

TOTAL SECTION A: 30

SECTION B

QUESTION 4

4.1 Documentary evidence consists of statements made in writing.

Explain the rules that must be complied with for documents to be admissible. (3)

4.2 Discuss the FOUR factors in Section 60(8) of the Criminal Procedure Act 51 of 1977 to prove that the accused will undermine or jeopardise the objectives or functioning of the Criminal Justice system if released on bail. (7)

4.3 With regards to the principles of fairness towards the accused name FOUR rights and duties of the accused. (4)

4.4 In Zinn 1969(2) SA 537 (A) 540, the court emphasised that there are three main considerations to be considered when an offender is punished

Discuss these THREE considerations known as the triad of Zinn. (6)
[20]

TOTAL SECTION B: 20

SECTION C

QUESTION 5

Study the information below and answer the questions.

ACCUSED SENTENCED TO TEN YEARS IMPRISONMENT FOR DEALING IN DRUGS

MPUMALANGA – The Evander Court has convicted Rethabile Chabedi (27) to ten years imprisonment on Tuesday for dealing in drugs following a thorough Hawks' investigation.

Chabedi and Chubuike Faithful Ani (47) were arrested by the Hawks' Serious Organised Crime Investigation Unit in December 2017, following a tipoff that they were transporting drugs in the vicinity of Embalenhle. The vehicle fitting the description was stopped and searched and R250 000 worth of Methcathinone drugs, commonly known as 'Kat' were seized.

The court found that Ani was in the country illegally and was sentenced to a fine of R1 500,00 for contravening the Immigration Act, but he was acquitted on other charges. The Department of Home Affairs has been ordered to facilitate Ani's deportation process. Meanwhile, following a plea agreement, Chabedi was ordered to serve a ten (10) year direct imprisonment term.

During judgement the magistrate mentioned that he found it strange that Chabedi took blame for the drugs, effectively exonerating the other accused.

[Adapted from: *The SAPS Media*, 18 July 2019]

5.1 Name and discuss the section of the Criminal Procedure Act that gives a private person the right to arrest a person without a warrant. (4)

5.2 Discuss the principles about the payment of fines as determined by the courts. (6)

5.3 List the FOUR factors the court must consider before deciding on an appropriate sentence. (4)

5.4 Name the kind of court in which a criminal offence can be tried. (1)
[15]

QUESTION 6

Study the information below and answer the questions.

TAXI DRIVER IN POLICE CUSTODY OVER ALLEGED MURDER

A 61-year-old taxi driver is in police custody after he allegedly stabbed a 36-year-old passenger at a local filling station in Thaba Nchu.

A taxi arrived at Thaba Nchu from Bloemfontein on 3 July 2019 at about 19:20. Passengers disembarked from the taxi and one passenger requested his change from the taxi driver. It is alleged that a fight broke out between the driver and the passenger. The taxi driver got a knife from his taxi. According to witnesses he went to the passenger who was requesting change and stabbed him in the chest.

The taxi driver then drove to the police station and reported himself to the police. The police went to the crime scene and found the deceased lying on the ground. Emergency Medical Services were summoned. On their arrival, they declared the African male dead. A murder case was opened for investigation. The taxi driver is expected to appear soon before Thaba Nchu Magistrates' Court.

Lieutenant General Moeketsi Sempe, Free State Police Provincial Commissioner, pleaded with taxi drivers and passengers to avoid such violent conduct that may lead to loss of life, and to solve their differences amicably.

[Adapted from: *The SAPS Media*, 4 July 2019]

6.1 Discuss the procedures after arrest. (7)

6.2 Explain the 48-hour procedure. (5)

6.3 Describe a confession according to the case of *Becker* 1929 AD. (3)
[15]

TOTAL SECTION C: 30

SECTION D

QUESTION 7

7.1 Explain the rights of everyone who is detained, including every prisoner who has been sentenced according to Section 35 (2) of the Constitution of the Republic of South Africa, 1996 by providing examples. (10)

7.2 'It is a fundamental principle of the Law of Criminal Procedure and the common law that an accused person has to be present during their trial.'

Name THREE circumstances in terms of section 159 of the Criminal Procedure Act under which an accused's absence is justified. (3)

7.3 Name ANY TWO reasons for appeal from lower courts. (2)

7.4 Section 35(1)(f) of the Constitution provides as follows: “Everyone who is arrested for allegedly committing an offence has the right to be released from detention if the interests of justice permit, subject to reasonable conditions.”

List the considerations the court takes into account to circumscribe the granting of bail. (5)
[20]

TOTAL SECTION D: 20
GRAND TOTAL: 100

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