higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

LAW PROCEDURES AND EVIDENCE
NQF LEVEL 4

(8021004)

1 March 2018 (Y-Paper)
13:00–16:00

This question paper consists of 6 pages.

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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. Write neatly and legibly.

NCV

SECTION A

QUESTION 1

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.

1.1 When imposing a fine, the court must look into the financial position of the accused's parents.

1.2 When admission of guilt is paid on summons, the accused does not have to appear in court.

1.3 A fine may be paid in instalments as determined by the court on application.

1.4 An accused has the right to receive information in a language that he/she understands.

1.5 Communication between a magistrate and other parties in a case can only take place in an open court.

1.6 An appeal can be made against caution and discharge.

1.7 Capital punishment can be imposed for high treason.

1.8 The prosecutor conducts the examination in chief of defence witnesses.

1.9 The victim may execute a warrant of arrest.

1.10 All evidence in court must be given under oath.

(10 × 1) **[10]**

QUESTION 2

Read the following descriptions and name the section of the Criminal Procedure Act 51 of 1977 covered. Write only the section next to the question number (2.1–2.10) in the ANSWER BOOK

2.1 Search to be conducted in a decent manner.

2.2 Nonliability for wrongful search.

2.3 Capacity of the accused to understand proceedings.

2.4 Accused may be released on warning in lieu of bail.

2.5 Breaking open of premises for the purpose of arrest.

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2.6 Appeal for lower court by convicted person.

2.7 Evidence on commission.

2.8 Accused refusing to plead.

2.9 Arrest by a private person without a warrant.

2.10 Parent or guardian of accused under 18 years to attend proceedings.

(10 × 1) **[10]**

QUESTION 3

3.1 Name THREE things a court should consider when sentencing. (3)

3.2 Name TWO forms of review. (2 × 2) (4)

3.3 Name the evidence that is excluded in the interest of protecting individuals. (1)

3.4 Identify and name the case in which the death sentence was declared unconstitutional. (2)

[10]

TOTAL SECTION A: 30

SECTION B

QUESTION 4

Read the statement below and answer the questions.

Krejcir's Playboy mistress arrested: Marissa Christopher, one-time Playboy cover girl and mistress of Czech criminal Radovan Krejcir, was arrested on Saturday for allegedly aiding and assisting him in one of his many escape attempts. Police have been searching for Christopher since April 2016, when a warrant was issued for her arrest after she allegedly paid people to help Krejcir escape from prison in November 2015. Immediately after Christopher was arrested, prison official Hendricks Johannes Herbst was also arrested. He was accused of smuggling a cellphone into Krejcir's cell.

[Source: *Pretoria News*, 26 July 2016]

4.1 Discuss whether Marissa will be guilty of any offence. (8)

4.2 Discuss whether the district court can try the mentioned crime. (5)

4.3 Who can apply for a warrant of arrest? (3)

4.4 Explain for how long the warrant of arrest is valid. (4)

[20]

TOTAL SECTION B: 20

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SECTION C

QUESTION 5

5.1 Evidence may not be obtained in a manner that violates human rights, for example through torture.

Evaluate this statement in terms of admission of such evidence. (6)

5.2 Discuss the sentencing of a juvenile offender in terms of section 290(1) of the Criminal Procedure Act 51 of 1977. (6)

5.3 Define *circumstantial evidence.* (2)

5.4 Name the defence stating that an accused was somewhere else when a crime was committed. (1)

[15]

QUESTION 6

Read the article below and answer the questions.

Any confession, which is under section 217(1) of the Criminal Procedure Act 51 of 1977 inadmissible against a person who made it, shall become admissible against him/her.

6.1 Discuss admission of such evidence. (3)

6.2 Explain the minimum conditions of detention in terms of section 35(5)(2)(e) of the Constitution (1996). (6)

6.3 Discuss the consequence if an accused on bail fails to appear in court. (6)

[15]

TOTAL SECTION C: 30

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SECTION D

QUESTION 7

7.1 Discuss the circumstances under which a police officer may conduct a search without a search warrant. (8)

7.2 Read the statement below and answer the question.

> The interest of justice does not permit the release from detention of an accused when one or more of the grounds mentioned in section 60(4) of the Criminal Procedure Act 51 of 1977 are established. One of the grounds is that if released on bail, the accused will attempt to influence or intimidate witnesses or to conceal or destroy evidence.

Discuss which factors the court must consider when deciding about the likelihood that an accused, if released on bail, will attempt to influence or intimidate witnesses or to conceal or destroy evidence. (12)
[20]

TOTAL SECTION D: 20
GRAND TOTAL: 100

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