higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

NATIONAL CERTIFICATE (VOCATIONAL)

LAW PROCEDURES AND EVIDENCE
NQF LEVEL 4

(8021004)

12 November 2018 (Y-Paper)
13:00–16:00

This question paper consists of 8 pages.

NCV

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TIME: 3 HOURS
MARKS: 100

NOTE: If you answer more than the required number of questions, only the required number of questions will be marked. If you do not want any work to be marked, please draw a line through the work.

INSTRUCTIONS AND INFORMATION

1. Answer ALL the questions in Sections A, B and C.
2. Answer any ONE of the two questions in SECTION D.
3. Read ALL the questions carefully.
4. Number the answers according to the numbering system used in this question paper.
5. Write neatly and legibly.

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SECTION A

QUESTION 1

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

1.1 Pre-trial stage is when the crime is investigated until the commencement of trial.

1.2 If there is more than one accused and one of them is absent, the trial will usually be postponed to a later date.

1.3 The consequence or effect of an arrest is that the person arrested is in lawful custody and is detained until he or she is lawfully discharged or released from custody.

1.4 The expiry time is affected by a number of factors.

1.5 Section 22 of the Criminal Procedure Act allows the state to seize certain articles.

1.6 Sections 58 – 71 of the Criminal Procedure Act deals with aspects regarding bail.

1.7 The Supreme Court of Appeal only functions as a court of appeal and never as a court of the third instance.

1.8 Exceptionally long sentences are one (1) of the forms of sentences.

1.9 Condonation is the official list of court cases.

1.10 Direct evidence refers to the evidence of a person who actually observed a fact in issue and who was, in other words, an eyewitness.

(10 × 1) **[10]**

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QUESTION 2

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

warning; procedural; trial, honour; lower, justice; admission; 67; *audi alteram partem*; 51; parole; jail; police

2.1 Criminal … powers are the powers conferred upon certain persons by the law.

2.2 One of the reasons for issuing a commission is that the evidence is necessary in the interest of ...

2.3 Section … of the Police Act (Act No 68 of 1995) deals with interference with members.

2.4 Section …of the Criminal Procedure Act (Act No 51 of 1977) deals with escaping and aiding escaping.

2.5 We all attach great importance to our bodies in terms of our dignity … and privacy.

2.6 In addition to being released on bail, the accused may be released on a… if the accused is a juvenile.

2.7 … means to hear the other side.

2.8 The … court can decide what punishment to impose.

2.9 The High Court also has review powers in respect of … courts, regulated by statute.

2.10 An … is weaker than a confession.

(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	Legal professional privilege	A	unlawful and intentional killing of another human being
3.2	Review or appeal	B	a commission involves the evidence of witnesses being taken by a commissioner
3.3	Right to remain silent	C	taking possession of an object and then keeping it afterwards
3.4	Murder	D	bail before the first appearance of accused in a lower court
3.5	Robbery	E	gives every accused the right to have recourse
3.6	Evidence on commission	F	is one form of a sentence
3.7	Seize	G	the defence have the opportunity of addressing the court on the question whether the accused should be convicted or acquitted
3.8	Section 59 of the Criminal Procedure Act	H	any person is entitled to consult with a legal practitioner to obtain legal advice
3.9	Addressing the court	I	the unlawful and intentional forceful removal of the movable and tangible property of somebody else
3.10	Declaration as a habitual offender	J	an accused can never be forced to testify
		K	in the case of an application, any judge may grant of refuse an application
		L	reside in all provinces and have their own seats in the high court
		M	do not have to define the purpose of search and article that may be seized

(10 × 1) **[10]**

TOTAL SECTION A 30

SECTION B

QUESTION 4

4.1 Distinguish between a *confession* and *an admission*. (12)

4.2 Discuss section 159(2) of the Criminal Procedure Act regarding the circumstances in which criminal proceedings may take place in absence of the accused. (8)
[20]

TOTAL SECTION B: 20

SECTION C

QUESTION 5

Read the article below and answer the questions.

Published: Friday, September 12, 2014, 3:52 AM

Reeva Steenkamp died a horrible, painful, terrible death, her mother June said, ripping into the judge for seemingly buying the South African sprinter's argument that he thought a burglar was hiding in his master bathroom. 'He shot through the door, and I can't believe that they believe it was an accident.'

It doesn't matter that the double-amputee athlete now faces the prospect of up to 15 years in prison, she told NBC News.

Masipa has wide discretion in sentencing: She could send Oscar Pistorius to prison, sentence him to house arrest or even free him.

5.1 Identify the crime that Oscar was convicted of according to the article. (1)

5.2 Define the crime that he was convicted of. (2)

5.3 Explain the discretion when imposing a sentence. (9)

5.4 Explain section 35(5) of the Constitution (Act No 108 of 1996) concerning a fair trial in respect of admission of evidence. (3)
[15]

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QUESTION 6

Read the following scenario and answer the questions

Mr Dealer is suspected of manufacturing Mandrax tablets at his house and of dealing in drugs. An informant provided information that Mr Dealer received a large quantity of Mandrax and that he is going to get rid of it very quickly. The police arrive at Mr Dealer's house without a search warrant. They open the door, announce their presence and start searching the house. In the basement they discover a factory and bags of Mandrax tablets with a street value of R2 million. They seize the bags of Mandrax as well as Mr Dealer's computer and cellphones and arrest Mr Dealer.

6.1 Explain what constitutes reasonable grounds. (3)

6.2 Discuss articles that can be seized by the police. (6)

6.3 Discuss the considerations that the courts take into account to restrict the granting of bail. (6)

[15]

TOTAL SECTION C: 30

SECTION D

Answer any ONE of the two questions in this section.

QUESTION 7

7.1 Name the THREE matters that can be brought on appeal from a lower court by a person who has been convicted of a crime in terms of section 309(1) (a) of The Criminal Procedure Act (Act No 51 of 1977). (3)

7.2 Explain the procedure followed by a court when the accused refuses to plead. (3)

7.3 Differentiate between arrest with a warrant and arrest without a warrant.

(14)
[20]

OR

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QUESTION 8

8.1 Discuss the meaning of *no evidence* and state the case in which such a decision was made. (4)

8.2 Explain the Presidential authority in terms of Section 84(2) (j) of the Constitution (Act No 108 of 1996) to pardon or reprieve offenders. (16)

[20]

TOTAL SECTION D: 20
GRAND TOTAL: 100

NC(V)

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