higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

# NATIONAL CERTIFICATE (VOCATIONAL)

## LAW PROCEDURES AND EVIDENCE
### NQF LEVEL 4

(8021004)

**13 November 2019 (X-Paper)**
**09:00–12:00**

**This question paper consists of 6 pages.**

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 BLUE or BLACK ink.
6. Write neatly and legibly.

---

Copyright reserved 

## 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 The accused has the opportunity to hear the evidence of a witness.

1.2 Ordinary court hours mean a day on which a court normally sits.

1.3 A person arrested must be informed of their right to apply for bail.

1.4 From 1935 to 1990 the death penalty was mandatory for murder in South Africa.

1.5 Oral evidence is used to refer to the best evidence available.

1.6 The criminal process is divided into four phases.

1.7 A private person may arrest without a warrant.

1.8 Arresting a suspected person is part of punishment.

1.9 Clerk of the court may apply in writing for a warrant of arrest.

1.10 Section 37 in the Constitution, imposes reasonable limitations to laws of general applications.

(10 × 1) **[10]**

### QUESTION 2

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

| |
|---|
| infringement; *Habeas corpus;* J15; Jurisdiction; arrest; first appearance; peace officer; extradites; J175; fundamental rights; *ultra vires*. |

2.1 The … of people forms the contents of the Bill of Rights.

2.2 The breaking or disregard of a law or a right is called a/an …

2.3 … is the power to administer justice and apply laws in a specific area.

2.4 … is the official form to summons a person in criminal cases.

2.5 An extraordinary legal remedy from the English Law to submit the deprivation of personal freedom to judicial scrutiny on an urgent basis is called …

2.6 Acting beyond your legal powers is called …

2.7 One … a person when handing over a suspect to the officials of the country where he or she committed an offence.

Copyright reserved 

2.8 The … document outlines the nature of an alleged crime by the accused in court.

2.9 Bringing an accused before the lower court is called …

2.10 A warrant of arrest can be executed by a …

(10 × 1) **[10]**

**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 | Trial stage | A | an arrested person must be brought to a police station or a place mentioned in the warrant as soon as possible after arrest |
| 3.2 | Absence because of misconduct | B | the accused was brought back to court to see whether his attitude had changed |
| 3.3 | Motive | C | a case that appears to be true from the facts presented at first examination |
| 3.4 | Section 50 of the Criminal Procedure Act | D | evidence is excluded as it could harm state interests |
| 3.5 | Forfeiture | E | it may become necessary to remove an accused who misbehaves during his or her trail from the court |
| 3.6 | *Pauline 1928* | F | the giving of false evidence after having sworn under oath to tell the truth |
| 3.7 | *Prima facie* | G | a review of a judgement or a sentence by a higher court than the court that imposed the sentence |
| 3.8 | State privilege | H | commences with the trial and ends with the verdict of the court |
| 3.9 | Appeal | I | giving up ownership of an object as a penalty |
| 3.10 | Perjury | J | the conscious or unconscious reason for doing something |
| | | K | permission to appeal |
| | | L | accused must be present during trial |
| | | M | resisting arrest |

(10 × 1) **[10]**

**TOTAL SECTION A: 30**

## SECTION B

## QUESTION 4

4.1 Explain how the court will deal with offender under the age of 18 years. (7)

4.2 Briefly explain how the cross-examination of an accused must be conducted. (5)

4.3 Explain if force can be used to overcome resistance by an accused to be arrested. (6)

4.4 Name any TWO types of privileges. (2)
**[20]**

**TOTAL SECTION B: 20**

## SECTION C

## QUESTION 5

Study the information below and answer the questions.

**TWO LIFE SENTENCES FOR BRAEMAR RAPIST UNCLE**

**KWAZULU-NATAL** – A 26-year-old Braemar man appeared in the Scottburgh Regional Court on 20 April 2018 where he was convicted on two counts of rape and sentenced to two life sentences.

The man's 11-year-old niece went missing from home on 25 November 2016 at 14:00 and returned home the following morning at 06:00. When questioned by her mother, the little girl said that she had slept over at her uncle's home. Suspecting that something was amiss, the mother questioned her further and learnt that the child had been sexually violated by her uncle. A medical examination at the hospital in Scottburgh confirmed that the child had indeed been sexually assaulted. A case of rape was registered by the Sawoti SAPS and assigned to the Family Violence, Child Protection and Sexual Offences Unit detective for investigation. The uncle was duly arrested and brought before court to stand trial.

[Adapted from: *The SAPS Media*, 27 April 2018]

5.1 Discuss if the regional court was the appropriate court to try the abovementioned crime. (2)

5.2 Explain the accusatory criminal system. (5)

5.3 Discuss the powers of the court of appeal in the case of an appeal against a conviction or of any question of law reserved. (6)

5.4 Identify the type of real evidence that can be used in the court in this case. (2)
**[15]**

Copyright reserved 

## QUESTION 6

Study the information below and answer the questions.

**HAWKS ARREST SUSPECT OF DRUGS WORTH R5.2 MILLION**

**GAUTENG** – A 41-year-old suspect is expected to appear at the Roodepoort Magistrates Court on Friday after his arrest by the Hawks' South African Narcotics Enforcement Bureau (SANEB) for possession of drugs with an estimated value of approximately R5.2 million.

The Hawks were on the beat on an unrelated investigation when they observed a suspect hastily getting out of a vehicle that had just parked at the Florida Junction parking lot. The same suspect got into a different vehicle and drove off.

This raised suspicion from the members who immediately pursued the vehicle and intercepted it shortly afterwards. A search of the vehicle resulted in the recovery of drugs believed to be heroine concealed inside boxes.

The suspect was immediately arrested and both vehicles were impounded for further investigation. Further investigations continue.

[Adapted from: *The SAPS Media*, 8 March 2018]

6.1 Explain the purpose of an arrest. (2)

6.2 Discuss the powers to search an arrested person and the seizure of any articles found in his/her possession. (5)

6.3 6.3.1 Name the section of the Constitution that ensures an accused has the right to a fair trial. (1)

6.3.2 Name THREE privileges of an accused when having a fair trial. (3)

6.4 Discuss the arrested person's constitutional right to bail. (4)
**[15]**

**TOTAL SECTION C 30**

## SECTION D

## QUESTION 7

7.1 Discuss the FOUR circumstances according to Section 22 of the Criminal Procedure Act under which a police official may search and seize without a warrant. (8)

7.2 Explain the FOUR ways in which a person can lose privilege in terms of section 197 of the Criminal Procedure Act. (8)

7.3 Explain TWO ways in which a criminal case, heard at first instance in a superior court, can be taken to the supreme court of appeal. (4)
**[20]**

**TOTAL SECTION D: 20**
**GRAND TOTAL: 100**

Copyright reserved