

**CRW1501**

May/June 2017

**INTRODUCTION TO THE GENERAL PRINCIPLES OF CRIMINAL LAW**

Duration 2 Hours

100 Marks

**EXAMINERS**

FIRST

DR K NAIDOO

SECOND

DR BJ GORDON

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Closed book examination

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This examination question paper consists of five (5) pages

Read the instructions carefully before answering the questions.

Answer all four (4) questions

[TURN OVER]

**Question 1**

Five questions, marked 1 to 5, follow. Each question contains three statements marked (a) to (c). Some of the statements are correct, while others are incorrect. You must decide which of the statements is/are correct. The three statements are followed by five allegations. Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusion you have reached and write down only the corresponding number in your examination answer book (either 1, 2, 3, 4 or 5).

**Question 1 1**

- (a) The term "common law" refers to those rules of law that are not contained in an act of parliament or in legislation ✓
- (b) The rules of substantive criminal law are for the most part found in acts of parliament
- (c) The general principles of South African criminal law are not codified ✓
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct [2]

**Question 1 2**

- (a) The principle of legality is based on principles of constitutional democracy and equity, as contained in the Constitution
- (b) A court of law must interpret the wording in the definition of a crime widely
- (c) Courts can create new crimes
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct [2]

[TURN OVER]

**Question 1 3**

- (a) The perpetrator of an act must be a human being
- (b) Merely thinking of doing something unlawful is not punishable
- (c) A human being cannot be punished if he or she commits a crime through the agency of an animal
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (b) and (c) are correct [2]

**Question 1.4**

- (a) X's act is the factual cause of Y's death if it is a *conditio sine qua non* of Y's death
- (b) An act is a *conditio sine qua non* for a situation if the act can be thought away with the situation disappearing at the same time
- (c) X's act is a factual cause of Y's death if it can be justified as reasonable and fair in terms of policy considerations
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (b) and (c) are correct [2]

**Question 1 5**

- (a) Where an act exceeds the limits of a ground of justification, it is unlawful ✓
- (b) When determining unlawfulness, what X subjectively imagined, is important
- (c) Some well-known grounds of justification are consent, necessity and culpability
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct [2]

[10]

[TURN OVER]

**Question 2**

- 2 1 Name and briefly discuss the four elements of criminal liability (8)
- 2 2 Name and discuss the points of difference between a crime and a delict (12)
- 2 3 List the rules that are contained in the principle of legality (5)
- 2 4 One of the instances in which our law does not regard conduct as voluntary is where a person behaves in a mechanical fashion. This is referred to as automatism. Give three (3) examples of conduct that could be regarded as automatism (3)
- 2 5 Explain what you understand by the theory of *novus actus interveniens* (2)
- [30]**

**Question 3**

- 3 1 X, a 25-year-old man, is walking to work one morning when he is approached by Y, a 12-year-old pickpocket. Y tries to steal the plastic lunchbox that X is carrying. X retaliates by pulling a gun out of his trouser pocket and shooting Y in the chest. Y dies a few seconds later. Can X successfully rely on private defence on a charge of murder? Discuss with reference to the requirements of the defence of private defence (10)
- 3 2 *Read the scenario below and then answer the questions that follow*  
 X's baby swallows an amount of Aspirin tablets. X rushes the child by car to the hospital for emergency treatment. While driving to the hospital, X exceeds the speed limit. Which ground of justification can X rely on for having exceeded the speed limit? Discuss in detail with reference to the requirements of this ground of justification (10)
- 3 3 Can X rely on consent as a ground of justification in the following examples? Explain
- 3 3 1 X is a doctor. After examining Y, a healthy 11-year-old girl, X obtains consent from Y and performs an operation on her to remove her tonsils (3)
- 3 3 2 Y, a mentally ill woman, consents to have sexual intercourse with X. X proceeds to have sex with Y (3)
- 3 4 X is a security officer at OR Tambo International Airport. She conducts a physical search on Y, a female passenger who is about to board a flight to London. Y complains that X had no right to touch her. Which ground of justification can X rely on? Explain (4)
- [30]**

**[TURN OVER]**

**Question 4**

- 4 1 What are the two (2) components of the test used to determine whether a person is endowed with criminal capacity? (4)
- 4 2 List two (2) defences that exclude criminal capacity (4)
- 4 3 Name the two (2) elements of intention and explain briefly what each entails (4)
- 4 4 Define each of the three (3) forms of intention and illustrate each by means of an example (6)
- 4 5 Why is it said that the test for intention is subjective? Explain briefly (5)
- 4 6 *Discuss fully whether X's mistake in the scenario below can exclude the intention to commit murder*
- X is out hunting. He sees what he thinks is a buck and decides to shoot. He aims his gun and pulls the trigger. It later appears that what X thought was a buck was actually Y, another human being (3)
- 4 6 Explain the concept of *aberratio ictus* by means of a practical example [4]  
[30]

**TOTAL [100]**