

**CRW1501**

( 489225)

October/November 2015

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

Duration 2 Hours

100 Marks

EXAMINERS ·

FIRST

SECOND

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MR BJ GORDON

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Closed book examination.

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**This examination question paper consists of four (4) pages.**

**Read the instructions carefully before answering the questions.**

**Answer all four (4) questions.**

**[TURN OVER]**

**Question 1**

Five (5) questions marked 1.1 to 1.5 follow. Each question contains three statements marked (a) to (c). Some of the statements are correct and some 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 book (either 1, 2, 3, 4 or 5).

**Question 1.1**

- (a) One of the sources of our common law is the writings of the Roman Dutch authors
  - (b) The term 'common law of South Africa' refers to those rules of law that are contained in Acts of Parliament and other legislation
  - (c) If a law is incompatible with the Bill of Rights, it can never be declared null and void
- (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 1.2**

- (a) Roman-Dutch law was brought to the Cape in 1852 by officials of the Dutch East India Company
  - (b) The legal rules applicable to crimes such as murder and theft are codified
  - (c) After the annexation of the Cape by the British, English law exerted a considerable influence on the Roman Dutch common law
- (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 1.3**

- (a) It is presumed that an accused is guilty until the state has proved his innocence
  - (b) It is the state (or prosecution) that has to prove beyond reasonable doubt that an accused is guilty
  - (c) The element of culpability focuses on the act or conduct of the perpetrator
- (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)

**[TURN OVER]**

**Question 1.4**

- (a) A court may convict and punish a person merely because his conduct is immoral  
 (b) The legality principle is regarded as an essential "element" of a crime  
 (c) Assuming that the court regards the accused's conduct as a crime, the first step is to enquire whether there was an act or an omission
- (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) The "prohibition on retrospectivity" in the principle of legality means that the conduct of an accused does not have to be recognised as a crime at the time of its commission  
 (b) A sentence may only be imposed on a convicted person if such a sentence was recognised by law in clear terms only after the crime was committed  
 (c) The principle of legality is recognised in section 35(3) (l) and (n) of the South African Constitution, 1996
- (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)
- [10]

**Question 2**

- 2 1 Name and briefly discuss each of 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 Name three factors which exclude the voluntary nature of an act [3]  
 2 4 Explain what you understand by the theory of *novus actus interveniens* [2]  
 2 5 X wishes to kill Y X shoots at Y but the bullet misses Y Y then runs into a building to escape X However Y does not know that Z, who has nothing to do with X, has planted a bomb in the building The bomb goes off and Y is killed Explain whether X is liable for Y's death in terms of the theory of *factual causation* [5]
- [30]

[TURN OVER]

**Question 3**

- 3 1 List some of the interests that can be protected when invoking private defence as a ground of justification? [5]
- 3 2 X is walking home one evening when he notices smoke coming out from under the door of a house. On closer inspection X sees that there are children in the house. Being a responsible citizen, X breaks open the front door of the house and rescues the children inside. A few days later the owner of the house lays a charge of damage to property against X. Which ground of justification can X rely on? Discuss in detail with reference to the requirements of this ground of justification. [10]
- 3 3 In cases where consent is raised as a ground of justification, it must comply with a number of requirements. List these requirements. (NB You do not have to discuss each requirement.) [6]
- 3 4 Give two examples of conduct that would not be regarded as unlawful since it is justified by the ground of justification *official capacity*. [4]
- 3 5 In the case of *S v Mostert* 2006 (1) SACR 560 (N), the court applied the principle in section 199(6) of the Constitution of the Republic of South Africa, 1996, that the defence of obedience to orders will be successful provided that the orders were not manifestly unlawful. Discuss this case with reference to the requirements of this defence. [5]
- [30]**

**Question 4**

- 4 1 Briefly discuss how culpability is established. [2]
- 4 2 What are the two (2) components of the test used to determine whether a person is endowed with criminal capacity? [4]
- 4 3 Name the two (2) elements of intention and explain briefly what each entails. [4]
- 4 4 Where there is no direct proof of intention, a court may infer or find that an accused acted intentionally from indirect proof. List some of the factors that a court could take into consideration when trying to prove intention. [6]
- 4 5 Explain the concept of *error in objecto* by means of a practical example. [4]
- 4 6 Explain and discuss the concept of the "reasonable person". [10]
- [30]**

**TOTAL: [100]**

PART 1 (GENERAL/ALGEMEEN) DEEL 1

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INITIALS AND SURNAME  
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For use by examination invigilator  
Vir gebruik deur eksamenopsiener

- IMPORTANT**
- USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
  - MARK LIKE THIS
  - CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
  - ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
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- BELANGRIK**
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PART 2 (ANSWERS/ANTWOORDE) DEEL 2

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Specimen only