

CRW2602

(477596)

October/November 2017

CRIMINAL LAW: SPECIFIC CRIMES

Duration 2 Hours

100 Marks

EXAMINERS

FIRST

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SECOND

Closed book examination

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THIS PAPER CONSISTS OF SEVEN (7) PAGES PLUS INSTRUCTIONS FOR COMPLETION OF A MARK READING SHEET

THE QUESTIONS IN THIS PAPER COUNT HUNDRED (100) MARKS. THE PAPER CONSISTS OF TWO PARTS, MARKED A AND B. YOU MUST ANSWER BOTH PARTS A AND B. PART A CONSISTS OF TEN (10) MULTIPLE CHOICE QUESTIONS. EACH QUESTION COUNTS THREE (3) MARKS, WHICH MEANS THAT THE QUESTIONS IN PART A COUNT A TOTAL OF THIRTY (30) MARKS. IN PART B, THE ANSWERS TO THE QUESTIONS MUST BE WRITTEN IN THE EXAMINATION ANSWER BOOK ITSELF. THE QUESTIONS IN PART B COUNT SEVENTY (70) MARKS.

PART A (MULTIPLE CHOICE QUESTIONS)

IMPORTANT NOTICE. THE QUESTIONS IN THIS PART HAVE TO BE ANSWERED ON THE MARK READING SHEET, WHICH WILL BE ISSUED WITH YOUR EXAMINATION ANSWER BOOK. YOU HAVE TO READ THE INSTRUCTIONS IN CONNECTION WITH THE USE OF THE MARK READING SHEET CAREFULLY. FAILURE TO DO SO MAY MEAN THAT YOUR ANSWERS CANNOT BE MARKED BY THE COMPUTER.

Ten questions (marked 1 - 10) follow. Each question contains three statements (marked (a)-(c)). Some of the statements are correct and some are incorrect. You must decide which of these statements is/are correct. The three statements are followed by five allegations (marked (1)-(5)). Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusions to which you have come.

[TURN OVER]

QUESTION 1

- (a) "Terrorist activities" prohibited in section 1 of the *Protection of Constitutional Democracy against Terrorist and Related Activities Act* 33 of 2004 may consist of any act which causes serious risk to the health or safety of the public
 - (b) "Terrorist activities" as in the above-mentioned Act must be performed with a defined culpability
 - (c) The interests protected by the crime of terrorism are the safety and security of the Republic, its institutions and people
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (c) are correct
 - (5) All these statements are correct

QUESTION 2

- (a) For the crime of statutory perjury, the statements must be made in writing in the course of legal proceedings
 - (b) A legal representative, who, in the course of argument, makes a false declaration to the court, can be charged with common law perjury
 - (c) If X persuades Y, a witness in a trial, to give false evidence in court, X may be convicted of the crime of defeating or obstructing the course of justice
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (b) are correct
 - (5) Only statements (b) and (c) are correct

QUESTION 3

- (a) X can be convicted of the offence of corruption created in section 3 of the *Prevention and Combating of Corrupt Activities Act* 12 of 2004 if he had merely agreed to accept gratification unlawfully in the future
 - (b) X can be convicted of corruption even if the person to whom he had offered the benefit was a police trap who had no intention of keeping the benefit for himself
 - (c) The crime of corruption is completed only once the benefit is handed over
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (b) are correct
 - (5) Only statements (b) and (c) are correct

[TURN OVER]

QUESTION 4

- (a) If X exercises control over ecstasy tablets on behalf of Y but has no intention of using the drugs personally, X cannot be convicted of the crime known as "use or possession of drugs" in terms of section 4 of the *Drugs and Drugs Trafficking Act* 140 of 1992
 - (b) The mental element of possession in the above-mentioned Act relates to the intention with which somebody exercises control over an article
 - (c) If X buys dagga from Y with purpose of smoking it himself, he cannot be found guilty of the offence of dealing in drugs
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (b) are correct
 - (5) Only statements (b) and (c) are correct

QUESTION 5

- (a) The *Firearms Control Act* 60 of 2000 makes it punishable to be aware that somebody else possesses a firearm unlawfully and then to fail to report this to the police
 - (b) The crime of unlawfully possessing a firearm is defined in the *Firearms Control Act* 60 of 2000 in such a way that X commits the crime **only** if he exercises control over the weapon with the intention of possessing it as an owner for his own benefit
 - (c) A person may lawfully possess ammunition even if he does not have a licence in respect of a firearm capable of discharging that ammunition
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) All these statements are correct
 - (5) None of the statements is correct

[TURN OVER]

QUESTION 6

- (a) The *National Road Traffic Act* 93 of 1996 provides that no person shall drive a vehicle on a public road outside an urban area at a speed in excess of 80 km/h
 - (b) The definition of “driver” in the above-mentioned Act does not include persons who rides or attempts to ride any pedal cycle
 - (c) Only SAPS members are permitted to exceed the general speed limit in terms of section 60 of the Act
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) All these statements are correct
 - (5) None of the statements is correct

QUESTION 7

- (a) Reckless driving includes inconsiderate driving which might give rise to a risk of harm to others
 - (b) The interest protected by the crime of negligent driving is the safety of the public using the roads
 - (c) An intoxicated person sitting behind the steering wheel of a stationary vehicle which has its engine running may not be found guilty of a contravention of the offence driving under the influence of alcohol or drugs
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (b) are correct
 - (5) Only statements (b) and (c) are correct

QUESTION 8

- (a) The offence of pointing of a firearm in the *Firearms Control Act* 60 of 2000 may overlap with the crime of assault in the form of inspiring fear of immediate personal violence
 - (b) In order to secure a conviction for pointing of a firearm, the state needs to prove that the firearm was capable of firing a shot
 - (c) If X presses a water pistol against the body of Y, and Y thinks it is a real gun, X may be charged with the unlawful pointing of a firearm
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (b) are correct
 - (5) Only statements (a) and (c) are correct

[TURN OVER]

QUESTION 9

- (a) It is not required for robbery that the property should necessarily be on the person of the victim or in his presence when the violence takes place
 - (b) X assaults Y. His intention, at that moment, is merely to assault Y. After having knocked him unconscious, X sees Y's watch, decides to take the watch and in fact does so. X can be convicted of **robbery**
 - (c) X cannot be convicted of the crime of receiving stolen property, knowing it to have been stolen, if she received the property with the intention of keeping it merely temporarily for somebody else
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (b) are correct
 - (5) Only statements (a) and (c) are correct

QUESTION 10

- (a) Forgery is a form of fraud
 - (b) The reason why the word "malicious" appears in the crime "malicious injury to property" is that this crime can be committed only if X had an evil motive when he damaged the property
 - (c) Stretching one's arm through an open hole in a wall of a building does not amount to "breaking in" in the crime of housebreaking with intent to commit a crime
- (1) Only statement (a) is correct
 - (2) Only statements (a) and (b) are correct
 - (3) Only statements (a) and (c) are correct
 - (4) Only statements (b) and (c) are correct
 - (5) None of the statements is correct

SUB-TOTAL [30]**[TURN OVER]**

PART B

THIS PART CONSISTS OF THREE QUESTIONS, NUMBERED, 1, 2 AND 3 YOU MUST ANSWER ALL THREE QUESTIONS (WITH THEIR SUB-QUESTIONS) NOTE THAT YOU HAVE A CHOICE IN CERTAIN OF THE SUB-QUESTIONS SUBSTANTIATE YOUR ANSWERS AND REFER TO DECIDED CASES WHERE NECESSARY IN DECIDING UPON THE LENGTH OF YOUR ANSWERS YOU SHOULD BE GUIDED BY THE MARKS ALLOCATED TO EACH QUESTION.

Question 1

- (a) Define the crime of public violence (5)
- (b) X is in financial trouble and staying with his sister. He uses his sister's car with her consent but tells everybody that it is his own car. X's friend Y, who is under the impression that the car belongs to X, offers to buy the car from him in order to help him out of his financial crisis. X agrees, receives R80 000 from Y, and delivers the car to Y's house, promising that he will ensure that the car is registered in Y's name. Answer the following questions
- (i) Fully define the crime of theft (5)
 - (ii) Name and explain briefly the form of theft which is present in the factual scenario sketched above (1)
 - (iii) Did X perform an act of appropriation as required for the crime of theft? In your answer you must define an "act of appropriation" (3)
 - (iv) Can X also be convicted of fraud? Briefly discuss by setting out the elements of the offence (5)
- (c) Discuss **ONE** of the following cases
- (i) *S v Mshumpa* 2008 (1) SACR 126 (E)
 - (ii) *S v Gardener* 2011 (1) SACR 570 (SCA)
 - (iii) *S v Ndebele* 2012 (1) SACR 245 (GSJ) (6)

[25]**Question 2**

- (a) X, a top government official, is convicted by a judge of corruption. She is very unsatisfied with the outcome of the case, and at a public meeting declares "The whole bench in this country is corrupt"
- (i) With which crime may X be charged? Define this crime (5)
 - (ii) Identify clearly the specific form of the crime which is identified here (1)
 - (iii) What are the reasons for the existence of this crime? (4)
- (b) The application of force to the person of Y is the most common way in which the crime of assault is committed. Define assault and discuss in detail the requirement of 'application of force' for this form of the crime of assault (8)

[TURN OVER]

- (c) X bears a grudge against a previous girlfriend who had left him for another man. The girlfriend, Y, has a 10-year-old child, Z. One morning, X picks up Z at his school. He tells Z that his mother is seriously ill, and that she had sent him to pick up Z and to take him home. However, X takes Z to his own house and keeps him captive in the cellar underneath his house. He does not tell anybody about this and also does not demand a ransom from Y. Discuss whether X may be found guilty of the crime of kidnapping. (7)
[25]

Question 3

- (a) Name the six elements of the offence of extortion. (6)
- (b) X, a 26-year-old male and Y, a 20-year-old female, live in a one-roomed shack with their ten-year-old daughter, Z. X has sexual intercourse with Z with the assistance of Y. While X penetrates Z sexually, Y puts a piece of cloth in Z's mouth to prevent the neighbours from hearing her screams. Y tells nobody about what is going on since she is afraid that X will no longer support her financially if she reveals his criminal conduct. X also has sex with Y with her consent, and at the same time locks Z in the room with the intent to make her witness the act.
- (i) Merely name the offences in the *Criminal Law (Sexual Offences and Related Matters Amendment Act 32 of 2007)* of which X may be convicted. (3)
- (ii) Merely name any TWO offences in terms of the abovementioned Act of which Y may be convicted. (2)
- (c) In terms of section 1(2) of the *Criminal Law (Sexual Offences and Related Matters Amendment Act 32 of 2007)* "consent" means "voluntary and uncoerced agreement". Set out the circumstances in which such consent is deemed to be absent in terms of the said Act. (6)
- (d) Name the reasons for the existence of the following offences:
- (i) *Crimen iniuria* (1)
- (ii) Criminal defamation (1)
- (iii) Abduction (1)
- [20]

SUB-TOTAL [70]
TOTAL [100]

PART 1 (GENERAL/ALGEMEEN) DEEL 1

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INITIALS AND SURNAME
VOORLETTERS EN VAN

DATE OF EXAMINATION
DATUM VAN EKSAMEN

EXAMINATION CENTRE (E.G. PRETORIA)
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For use by examination invigilator
Vir gebruik deur eksamenopsiener

IMPORTANT

1. USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
2. MARK LIKE THIS
3. CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
4. ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
5. CHECK THAT YOUR STUDENT NUMBER HAS BEEN FILLED IN CORRECTLY
6. CHECK THAT THE UNIQUE NUMBER HAS BEEN FILLED IN CORRECTLY
7. CHECK THAT ONLY ONE ANSWER PER QUESTION HAS BEEN MARKED
8. DO NOT FOLD

BELANGRIK

1. GEBRUIK SLEGS 'N HB POTLOOD OM HIERDIE BLAD TE VOLTOOI
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PART 2 (ANSWERS/ANTWOORDE) DEEL 2

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MARK READING SHEET INSTRUCTIONS

Your mark reading sheet is marked by computer and should therefore be filled in thoroughly and correctly

USE ONLY AN HB PENCIL TO COMPLETE YOUR MARK READING SHEET

PLEASE DO NOT FOLD OR DAMAGE YOUR MARK READING SHEET

Consult the illustration of a mark reading sheet on the reverse of this page and follow the instructions step by step when working on your sheet

Instruction numbers ❶ to ❿ refer to spaces on your mark reading sheet which you should fill in as follows

- ❶ Write your paper code in these eight squares, for instance

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- ❷ The paper number pertains only to first-level courses consisting of two papers

WRITE

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 for the second. If only one paper, then leave blank

- ❸ Fill in your initials and surname
- ❹ Fill in the date of the examination
- ❺ Fill in the name of the examination centre
- ❻ WRITE the digits of your student number HORIZONTALLY (from left to right). Begin by filling in the first digit of your student number in the first square on the left, then fill in the other digits, each one in a separate square
- ❼ In each vertical column mark the digit that corresponds to the digit in your student number as follows [-]
- ❽ WRITE your unique paper number HORIZONTALLY
- NB Your unique paper number appears at the top of your examination paper and consists only of digits (e.g. 403326)
- ❾ In each vertical column mark the digit that corresponds to the digit number in your unique paper number as follows [-]
- ❿ Question numbers 1 to 140 indicate corresponding question numbers in your examination paper. The five spaces with digits 1 to 5 next to each question number indicate an alternative answer to each question. The spaces of which the number correspond to the answer you have chosen for each question and should be marked as follows [-]

- ◆ For official use by the invigilator. Do not fill in any information here