

ADVOCATES' EXAMINATION

PAPER 3
Criminal Procedure
Regulation 7(9)(e)

2 SEPTEMBER 2021

09:00-10:15

Total: [50]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 1 hour then follows.

1. Candidates must answer all the questions.
2. Candidates must remember that marks are awarded for good draftsmanship.
3. Candidates must invent their own facts wherever necessary.
4. Please write only in pen on the right-hand pages, the left side (underside) must only be used for your own notes.
5. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.
6. Admission papers 1 to 4 have orals for candidates who achieves a score from 40% and below 50%.
7. The legal writing and drafting paper (paper 5) does not have any orals, candidates must achieve a minimum score of 50% to pass this paper.

Answer all the questions.

CPA means the Criminal Procedure Act 51 of 1977.

QUESTION 1 **[10]**

- 1.1 The National Prosecuting Authority has declined to prosecute an employee of the complainant for theft. What would you advise the complainant to do? (4)
- 1.2 The amount allegedly stolen is R5 million. Does that affect your advice? And if so, how? (6)

QUESTION 2 **[2]**

When may a police official search any person without a warrant?

QUESTION 3 **[2]**

When is a police official obliged to take the finger prints of an arrested person?

QUESTION 4 **[6]**

An accused alleges that by reason of mental illness he is not criminally responsible for the offence charged. What happens now?

QUESTION 5 **[10]**

The accused is charged with murder. He gives your attorney and you a detailed explanation of what happened. Both you and your attorney are confident that the accused acted in self-defence.

- 5.1 Would you advise the accused to make a statement indicating the basis of his defence in terms of section 115 of the CPA? Explain your answer. (5)
- 5.2 What are the pros and cons of submitting a written statement of defence? Note, your reasoning needs to add to your previous answer. (5)

QUESTION 6 **[5]**

What considerations apply to the discharge of an accused at the close of the State's case in terms of section 174 of the CPA?

QUESTION 7 **[5]**

May an accused be convicted of any offence on the single evidence of any competent witness? Explain.

QUESTION 8 **[10]**

Your client is arrested at 16h00 on a Friday afternoon. He is being held at the local police station. His wife consults you and instructs you that he is a diabetic and has to take chronic medication. He must be released as soon as possible. What are your options if he is arrested on a Schedule 1 offence or any other offence?

- THE END -
