

**LAW OF CRIMINAL PROCEDURE & EVIDENCE
STANDARD GRADE**

SENIOR CERTIFICATE - EXAMINATION

NOVEMBER 2004

QUESTION 1

1.1 **Peace officer:** (5)

(1) Includes any magistrate, (2) justice, (3) police official, (4) correctional official as defined in Section 1 of the Correctional Services Act, 1959 (Act No. 8 of 1959), and, (5) in relation to any area, offence, class of offence or power referred to in a notice issued under Section 334(1), any person who is a peace officer under that section.

1.2 **Aggravating circumstances:** (8)

(1) In relation to robbery or attempted robbery, (2) means the wielding of a fire-arm or any other dangerous weapon (3) the infliction of grievous bodily harm (4) or a threat to inflict grievous bodily harm, (5) by the offender (6) or an accomplice (7) on the occasion when the offence is committed, (8) whether before or during or after the commission of the offence.

1.3 **Lower court:** (1)

(1) Any court established under the provisions of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944).

1.4 **Night:** (1)

(1) The space of time between sunset and sunrise.

[15]

QUESTION 2

- 2.1 (a) Section 20
(b) delivered
(c) perishable
(d) interests
(e) circumstances may require
(f) stolen property
(g) suspected to be stolen
(h) consent
(i) stolen
(j) warn
(k) resultant criminal proceedings
(l) a distinctive identification mark
(m) police custody
(n) make such other arrangements

(14)

- 2.2 (a) released
(b) information on oath
(c) evade justice
(d) abscond
(e) evade justice
(f) interfered
(g) threatened
(h) attempted to interfere
(i) witnesses
(j) defeated
(k) attempted
(l) poses a threat
(m) safety of the public
(n) particular person
(o) interests of justice
(p) cancelled
(q) committed to prison

(17)

[31]

QUESTION 3

- 3.1 b
- 3.2 a
- 3.3 l
- 3.4 k
- 3.5 o
- 3.6 n
- 3.7 g
- 3.8 i
- 3.9 m
- 3.10 c
- 3.11 j
- 3.12 e
- 3.13 f
- 3.14 d
- 3.15 h

[30]

QUESTION 4

- 4.1 True.
- 4.2 True.
- 4.3 True.
- 4.4 True.
- 4.5 True.
- 4.6 False. An arrest may be effected with or without a warrant.
- 4.7 False. No person shall be allowed to deposit for the benefit of an accused any bail money if the official concerned has reason to believe that such person has been or will be indemnified by any person in any manner against loss of such bail money or that he has received or will receive any financial benefit in connection with the deposit of such bail money.
- 4.8 False. An affirmation made in lieu of an oath have the same legal force and effect as an oath.
- 4.9 False. A plea of guilty may not be pleaded with any other plea to the same charge.

- 4.10 False. An accused may be convicted of any offence on the single evidence of any competent witness.
- 4.11 True.
- 4.12 True.
- 4.13 True.
- 4.14 True.
- 4.15 True.
- 4.16 False. A summons must be served on an accused so that he is in possession thereof at least **fourteen (14)** days (*Sundays and public holidays excluded*) before the date appointed for the trial.
- 4.17 False. The search of a woman may only be conducted by another female.
- 4.18 False. The illicit dealing in precious metals constitutes an offence referred to in Part I of Schedule 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- 4.19 False. Where an offence is committed in the presence of the court, the presiding judge or judicial officer may order the arrest of the offender.
- 4.20 False. A summons may, if the accused cannot be found, be delivered at his residence or place of employment or business to a person apparently over the age of 16 years and apparently residing or employed there.
- 4.21 True.
- 4.22 True.
- 4.23 True.
- 4.24 True.
- 4.25 True.

[45]

QUESTION 5

- 5.1 **Part II Schedule 2 crimes:** (16)

Treason / sedition / murder / rape / robbery / assault, when a dangerous wound is inflicted / arson / breaking or entering any premises, whether under the common law or a statutory provision, with intent to commit an offence / theft, whether under the common law or a statutory provision (*amount or value must exceed R200*) / receiving stolen property knowing it to have been stolen (*amount or value must exceed R200*) /

fraud (*amount or value must exceed R200*) / forgery or uttering a forged document knowing it to have been forged (*amount or value must exceed R200*) / any offence under any law relating to the illicit dealing in or possession of precious metals or precious stones / any offence under any law relating to the illicit possession, conveyance or supply of dependence-producing drugs / offences relating to the coinage / any conspiracy, incitement or attempt to commit any offence referred to in this Part.

5.2 **Pleas:** (8)

(1) Guilty (2) not guilty (3) already convicted (4) already acquitted (5) received a free pardon under Section 327(6) from the State President (6) court has no jurisdiction (7) has been discharged from prosecution under Section 204 (8) prosecutor has no title to prosecute.

5.3 **Requirements of confession:** (8)

(1) A confession must have been made freely (2) and voluntarily (3) by a person in his sound and sober senses (4) without having been unduly influenced thereto, (5) and if it was made to a peace officer, (6) other than a magistrate or justice, (7) it must have been confirmed and reduced to writing (8) in the presence of a magistrate or justice.

5.4 **Methods of securing attendance:** (4)

(1) Arrest (2) summons (3) written notice (4) indictment.

5.5 **Schedule 1 crimes that do not also appear in Part II of Schedule 2:** (10)

Public violence / culpable homicide / indecent assault / sodomy / bestiality / kidnapping / child stealing / malicious injury to property / any offence, except the offence of escaping from lawful custody, the punishment wherefor may be a period of imprisonment exceeding 6 months without the option of a fine / escaping from lawful custody, where the person concerned is in such custody in respect of a Schedule 1 offence or is in such custody in respect of the offence of escaping from lawful custody.

[46]

QUESTION 6

6.1 **Seizure of article without search warrant:** (12)

(1) A police official (2) may without a search warrant search any person (3) or container (4) or premises (5) for the purpose of seizing any article referred to in Section 20 (6) if the person concerned consents to the search for and the seizure of the article in question, (7) or if the person who may consent to the search of the container or premises consents to such search and seizure of the article in question, (8) or if he on reasonable grounds believes (9) that a search warrant will be issued to him under paragraph (a) of Section 21(1) (10) if he applies for such warrant, (11) and that the delay in obtaining such warrant (12) would defeat the object of the search.

6.2 **Effect of bail:** (12)

(1) Is that the accused who is in custody (2) shall be released from custody (3) upon payment of, (4) or the furnishing of a guarantee to pay, the sum of money determined for his bail, (5) and that he shall appear at the place (6) and on the date (7) and at the time appointed for his trial (8) or to which the proceedings relating to the offence in respect of which the accused is released on bail are adjourned, (9) and that the release shall, unless sooner terminated under the said provisions, (10) endure until a verdict is given by a court in respect of the charge to which the offence in question relates, (11) or, where sentence is not imposed forthwith after verdict and the court in question extends bail, (12) until sentence is imposed.

6.3 **Arrest without a warrant (private person):** (13)

(1) Any private person may without warrant arrest any person who commits or attempts to commit in his presence an offence referred to in Schedule 1 (2) or whom he reasonably suspects of having committed such an offence (3) whom he reasonably believes to have committed any offence and to be escaping from (4) and to be freshly pursued by a person whom such private person reasonably believes to have authority to arrest that person for that offence (5) whom he is by any law, authorized to arrest without warrant in respect of any offence specified in that law (6) whom he sees engaged in an affray (7) he may forthwith pursue that person, (8) and any other private person to whom the purpose of the pursuit has been made known, (9) may join and assist therein (10) the owner, lawful occupier or person in charge of property (11) on

or in respect of which any person is found committing any offence, (12) and any person authorized thereto by such owner, occupier or person in charge, (13) may without warrant arrest the person so found.

[37]

QUESTION 7

7.1 **Factors (accused attempt to evade trial):** (10)

(1) The emotional / family / community / occupational ties of the accused to the place at which he is to be tried (2) the assets held by the accused and where such assets are situated (3) the means, and travel documents held by the accused, which may enable him to leave the country (4) the extent, if any, to which the accused can afford to forfeit the amount of bail which may be set (5) the question whether the extradition of the accused could readily be effected should he flee across the borders of the Republic (6) the nature and the gravity of the charge on which the accused is to be tried (7) the strength of the case against the accused and the incentive that he may in consequence have to attempt to evade his trial (8) the nature and gravity of the punishment which is likely to be imposed should the accused be convicted of the charges against him (9) the binding effect and enforceability of bail conditions which may be imposed and the ease with which such conditions could be breached; or (10) any other factor which in the opinion of the court should be taken into account.

7.2 **Use of force in effecting an arrest:** (10)

(1) If any person authorized under this Act to arrest (2) or to assist in arresting another, (3) attempts to arrest such person (4) and such person resists the attempt (5) and cannot be arrested without the use of force or, (6) flees when it is clear that an attempt to arrest him is being made, (7) or resists such attempt and flees, (8) the authorized person may, in order to effect the arrest, use such force (9) as may in the circumstances be reasonably necessary to overcome the resistance (10) or to prevent the person concerned from fleeing.

7.3 **Disposal of article (criminal proceedings instituted and admission of guilt fine paid:** (13)

(1) The article shall be returned to the person from whom it was seized, (2) if such person may lawfully possess such article or, (3) if such person may not lawfully possess such article, (4) to the person who may lawfully possess it, (5) whereupon the provisions of Section 31(2) shall apply with reference to any such person (6) and shall be notified by registered post (7) at his last-known address that he may take possession of the article (8) and if such person fails to take delivery of the article (9) within 30 days from the date of such notification, (10) the article shall be forfeited to the State (11) if no person may lawfully possess such article (12) or if the police official charged with the investigation reasonably does not know of any person who may lawfully possess such article, (13) the article shall be forfeited to the State.

[33]

QUESTION 8

8.1 **Arrest without a warrant (police official):** (16)

Commits or attempts to commit crime in presence / reasonably suspects committed Schedule I offence, other than escaping / escape or attempt / in possession of housebreaking- or car breaking implement unable to give satisfactory account / in possession of anything reasonably suspected to be stolen property or property dishonestly obtained, reasonably suspected of having committed offence with respect thereto / any place at night reasonable grounds for believing committed or is about to commit an offence / reasonably suspected of unlawful possession of stock or produce / reasonably suspected offence under law governing making, supply, possession or conveyance of intoxicating liquor or dependence-producing drugs or possession or disposal of arms or ammunition / gambling house or at gambling table in contravention of law / obstructs in execution of duties / concerned in act committed outside Republic which would have been punishable if committed inside Republic / prohibited immigrant / deserter from Defence Force / suspected of having failed to observe condition imposed in postponing the passing of sentence or suspension / failed to pay any fine or part thereof / fails to surrender himself in order to undergo periodical imprisonment.

8.2 **Search of premises by occupant:** (15)

(1) Any person who is lawfully in charge or occupation of any premises (2) and who reasonably suspects that stolen stock or produce, as defined in any law relating to the theft of stock or produce, (3) is on or in the premises concerned, (4) or that any article has been placed thereon or therein (5) or is in the custody or possession of any person upon or in such premises (6) in contravention of any law relating to intoxicating liquor, (7) dependence-producing drugs, (8) arms and ammunition (9) or explosives, (10) may at any time, (11) if a police official is not readily available, (12) enter such premises for the purpose of searching such premises and any person thereon or therein, (13) and if any such stock, produce or article is found, (14) he shall take possession thereof (15) and forthwith deliver it to a police official.

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ANSWER ONLY QUESTION 9 OR QUESTION 10.

QUESTION 99.1 **Issuing of written notice:** (12)

(1) If an accused is alleged to have committed an offence (2) and a peace officer on reasonable grounds believes that a magistrate's court, on conviction, (3) will not impose a fine exceeding the amount determined by the Minister from time to time by notice in the Gazette (R1500) such peace officer may, (4) whether or not the accused is in custody, (5) hand to the accused a written notice which shall specify the name, (6) the residential address (7) and the occupation / status of the accused (8) specify the place, date and time of appearance (9) contain an endorsement in terms of section 57 that the accused may admit his guilt (10) and pay a stipulated fine without appearing in court (11) contain a certificate under the hand of the peace officer that he has handed the original of such written notice to the accused (12) and that he has explained to the accused the import thereof.

9.2 Administering of affirmation in lieu of an oath: (12)

(1) Any person who is or may be required to take the oath (2) and who objects to taking the oath (3) who objects to taking the oath in the prescribed form (4) who does not consider the oath in the prescribed form to be binding on his conscience or, (5) who informs the presiding judge or, as the case may be, the presiding judicial officer, that he has no religious belief or that the taking of the oath is contrary to his religious belief, (6) shall make an affirmation in the following words in lieu of the oath and (7) at the direction of the presiding judicial officer or, in the case of a superior court, the presiding judge or the registrar of the court (8) 'I solemnly affirm that the evidence that I shall give, shall be the truth, (9) the whole truth and nothing but the truth'. (10) Such affirmation shall have the same legal force and effect as if the person making it had taken the oath. (11) The validity of an oath duly taken by a witness (12) shall not be affected if such witness does not on any of the grounds referred to in subsection (1) decline to take the oath.

9.3 Breaking open of premises (arrest): (8)

(1) Any person who may lawfully arrest another in respect of any offence (2) and who knows or reasonably suspects (3) such other person to be on any premises (4) may, if he first audibly demands entry into such premises (5) and notifies the purpose for which he seeks entry (6) and fails to gain entry, (7) break open, enter and search such premises (8) for the purpose of effecting the arrest.

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OR**QUESTION 10**10.1 Rendering of incriminating evidence for the prosecution: (12)

(1) Whenever the prosecutor at criminal proceedings informs the court that any person called as a witness on behalf of the prosecution (2) will be required by the prosecution to answer questions which may incriminate such witness (3) with regard to an offence specified by the prosecutor (4) the court, if satisfied that such witness is otherwise a competent witness for the prosecution, (5) shall inform such witness that he is obliged to give evidence at the proceedings in question (6) that questions may be put to him

which may incriminate him with regard to the offence specified by the prosecutor (7) that he will be obliged to answer any question put to him, whether by the prosecution / accused / court, (8) that if he answers frankly and honestly all questions put to him, (9) he shall be discharged from prosecution and, (10) such witness shall thereupon give evidence and answer any question put to him, whether by the prosecution, the accused or the court, (11) notwithstanding that the reply thereto may incriminate him with regard to the offence so specified by the prosecutor (12) or with regard to any offence in respect of which a verdict of guilty would be competent upon a charge relating to the offence so specified.

10.2 Failure by witness to attend criminal proceedings / remain in attendance: (12)

(1) Any person who is subpoenaed to attend criminal proceedings (2) and who fails to attend or to remain in attendance at such proceedings, (3) and any person who is warned by the court to remain in attendance at criminal proceedings (4) and who fails to remain in attendance at such proceedings, (5) and any person so subpoenaed or so warned who fails to appear (6) at the place (7) and on the date (8) and at the time (9) to which the proceedings in question may be adjourned (10) or who fails to remain in attendance at such proceedings as so adjourned, (11) shall be guilty of an offence (12) and liable to the punishment contemplated in subsection (2) (*provisions of Section 170 (2) shall mutatis mutandis apply*).

10.3 Wrongful search by police official: (8)

(1) A police official who acts contrary to the authority of a search warrant issued under Section 21 or a warrant issued under Section 25 (1), (2) or who, without being authorized thereto under this Chapter (3) searches any person or container or premises (4) or seizes or detains any article, (5) or performs any act contemplated in subparagraph (i), (ii) or (iii) of Section 25 (1), (6) shall be guilty of an offence (7) and liable on conviction to a fine not exceeding R600 or to imprisonment for a period not exceeding 6 months, (8) and shall in addition be subject to an award under subsection (2).

[32]

TOTAL: [300]

END

**STRAFPROSES- EN BEWYSREG
STANDAARDGRAAD**

SENIOR SERTIFIKAAT - EKSAMEN

NOVEMBER 2004

VRAAG 1

1.1 **Vredesbeampte:** (5)

(1) Ook 'n landdros, (2) vrederegter, (3) polisiebeampte, (4) korrektiewe beampte, en, (5) met betrekking tot 'n gebied, misdryf, kategorie misdrywe of bevoegdheid wat in 'n ingevolge artikel 334(1) uitgereikte kennisgewing genoem word, iemand wat 'n vredesbeampte ingevolge daardie artikel is.

1.2 **Verswarende omstandighede:** (8)

(1) Met betrekking tot roof of poging tot roof (2) die hanteer van 'n vuurwapen (3) of 'n ander gevaaarlike wapen (4) die toediening van 'n ernstige liggaamlike besering, of (5) 'n dreigement om 'n ernstige liggaamlike besering toe te dien, (6) deur die oortreder (7) of 'n medepligtige (8) by die geleentheid waarby die misdryf gepleeg word, het sy voor of gedurende of na die pleging van die misdryf.

1.3 **Laer hof:** (1)

(1) 'n Hof wat kragtens die bepalings van die Wet op Landdroshewe, 1944 (Wet No. 32 van 1944), ingestel is.

1.4 **Nag:** (1)

(1) Die tydperk tussen sonsondergang en sonsopkoms.

[15]

VRAAG 2

- 2.1 (a) Artikel 20
 (b) oorhandig word
 (c) bederfsbaar
 (d) belang
 (e) omstandighede vereis
 (f) gesteelde goed
 (g) vermoedelik gesteelde goed
 (h) toestemming
 (i) gesteel
 (j) waarsku
 (k) strafregtelike verrigtinge
 (l) onderskeidende uitkenningssteken
 (m) polisiebewaring
 (n) ander reëlings

(14)

- 2.2 (a) Vrygelaat
 (b) inligting onder eed
 (c) aan die geregt te ontkom
 (d) te vlug
 (e) aan die geregt te ontkom
 (f) ingemeng
 (g) gedreig
 (h) gepoog
 (i) getuies
 (j) reg verydel
 (k) gepoog het
 (l) bedreiging inhoud
 (m) veiligheid van die publiek
 (n) bepaalde persoon
 (o) belang van geregtigheid
 (p) ingetrek
 (q) gevangenis gevange geset

(17)

[31]

VRAAG 3

- 3.1 b
- 3.2 a
- 3.3 l
- 3.4 k
- 3.5 o
- 3.6 n
- 3.7 g
- 3.8 i
- 3.9 m
- 3.10 c
- 3.11 j
- 3.12 e
- 3.13 f
- 3.14 d
- 3.15 h

[30]

VRAAG 4

- 4.1 Waar.
- 4.2 Waar.
- 4.3 Waar.
- 4.4 Waar.
- 4.5 Waar.
- 4.6 Vals. Inhegtenisneming kan met of sonder 'n lasbrief uitgevoer word.
- 4.7 Vals. Niemand word toegelaat om borggeld ten bate van 'n beskuldigde te deponeer nie, indien die beampete rede het om te dink dat so iemand op enige wyse teen die verlies van sodanige borggeld skadeloos gestel is of skadeloos gestel sal word, of dat hy geldelike voordeel ontvang het of enige geldelike voordeel sal ontvang in verband met die deponering van bedoelde borggeld.
- 4.8 Vals. 'n Bevestiging wat gemaak is in plaas van 'n eed, het dieselfde regskrag en - gevolg as 'n eed.
- 4.9 Vals. 'n Pleit van skuldig kan nie saam met enige ander pleit op dieselfde aanklag gepleit word nie.

b.o.

- 4.10 Vals. ‘n Beskuldigde kan op die enkele getuienis van ‘n bevoegde getuie aan ‘n misdryf skuldig bevind word.
- 4.11 Waar.
- 4.12 Waar.
- 4.13 Waar.
- 4.14 Waar.
- 4.15 Waar.
- 4.16 Vals. ‘n Dagvaarding moet aan ‘n beskuldigde beteken word sodat hy in besit daarvan is minstens veertien (14) dae (*met uitsluiting van Sondae en openbare feesdae*) voor die datum wat vir die verhoor bepaal is.
- 4.17 Vals. Die deursoeking van ‘n vrou mag slegs deur ‘n vrou uitgevoer word.
- 4.18 Vals. Die onwettige handel met edel metale is ‘n oortreding soos bedoel in Deel I van Bylae 2 van die Strafproseswet, 1977 (Wet No. 51 van 1977).
- 4.19 Vals. Waar ‘n misdryf in die teenwoordigheid van die hof gepleeg word, kan die voorsittende regter of regterlike amptenaar die inhegtenisneming van die oortreder gelas.
- 4.20 Vals. ‘n Dagvaarding kan, indien die beskuldigde nie gevind kan word nie, beteken word deur dit by sy woon-, werks- of besigheidsplek aan ‘n persoon te oorhandig wat blykbaar oor die ouderdom van 16 jaar is en blykbaar daar woonagtig of werksaam is.
- 4.21 Waar.
- 4.22 Waar.
- 4.23 Waar.
- 4.24 Waar.
- 4.25 Waar.

[45]

VRAAG 5

- 5.1 Deel II van Bylae 2 misdrywe: (16)

Hoogverraad / sedisie / moord / verkragting / roof / aanranding, wanneer ‘n gevaarlike wond toegedien word / brandstigting / inbraak by of betreding van ‘n perseel, hetsy ingevolge die gemenereg of ‘n statutêre bepaling / diefstal, hetsy ingevolge die gemenereg of ‘n statutêre bepaling (*bedrag of waarde betrokke moet R200 oorskry*) / ontvangs van gesteelde goed wetende dat dit gesteel is (*bedrag of waarde betrokke moet R200 oorskry*) / bedrog (*bedrag of waarde betrokke moet R200 oorskry*) /

b.o.

vervalsing of uitgifte van ‘n vervalste stuk wetende dat dit vervals is (*bedrag of waarde betrokke moet R200 oorskry*) / ‘n misdryf ingevolge ‘n wet betreffende die onwettige handel met of besit van edelmetale of edelgesteentes / ‘n misdryf ingevolge ‘n wet betreffende die besit, vervoer of verskaffing van afhanglikheidsvormende medisyne / misdrywe betreffende die munt van geld / sameswering, uitlokking of poging om ‘n in hierdie Bylae bedoelde misdryf te pleeg.

5.2 **Pleite:** (8)

(1) Skuldig (2) onskuldig (3) reeds skuldig bevind (4) reeds onskuldig bevind (5) algehele kwytskelding ingevolge Art. 327(6) van die Staatspresident ontvang het (6) hof het nie regsbevoegdheid nie (7) ingevolge Art. 204 gevrywaar is teen vervolging (8) aanklaer is nie bevoeg om te vervolg nie.

5.3 **Vereistes waaraan bekentenis moet voldoen:** (8)

(1) ‘n Bekentenis moes vrywillig (2) en ongedwonge gemaak gewees het deur ‘n persoon (3) by sy volle positiewe (4) sonder dat hy onbehoorlik daartoe beïnvloed is (5) en indien dit gedoen is aan ‘n vredesbeampte, (6) behalwe ‘n landdros of vrederegter, (7) moes dit in die aanwesigheid van ‘n landdros of vrederegter (8) bevestig en op skrif gestel gewees het.

5.4 **Metodes waarop aanwesigheid verkry word:** (4)

(1) Inhegtenisneming (2) dagvaarding (3) skriftelike kennisgewing (4) akte van beskuldiging.

5.5 **Bylae I misdrywe wat nie ook voorkom in Deel II van Bylae 2 nie:** (10)

Openbare geweld / strafbare mansslag / onsedelike aanranding / sodomie / bestialiteit / menseroof / kinderdiefstal / opsetlike saakbeskadiging / ‘n oortreding, behalwe die oortreding van ontsnapping uit wettige bewaring, waarvoor gevangenisstraf vir ‘n langer tydperk as 6 maande sonder die keuse van ‘n boete opgelê kan word / ontsnapping uit wettige bewaring, waar die betrokke persoon in sodanige bewaring is t o v ‘n Bylae 1 bedoelde misdryf of in sodanige bewaring is t o v die misdryf van ontsnapping uit wettige bewaring.

[46]

b.o.

VRAAG 6

6.1 Beslaglegging op voorwerp sonder visenteringslasbrief: (12)

(1) ‘n Polisiebeampte (2) kan sonder ‘n visenteringslasbrief ‘n persoon (3) of houer (4) of perseel visenteer (5) ten einde ‘n in artikel 20 bedoelde voorwerp in beslag te neem (6) indien die betrokke persoon in die soek na en die beslaglegging op die betrokke voorwerp toestem, (7) of indien die persoon wat in die deursoeking van die houer of perseel kan toestem, in so ‘n deursoeking en die beslaglegging van die betrokke voorwerp toestem, (8) of indien hy op redelike gronde dink (9) dat ‘n visenteringslasbrief ingevolge paragraaf (a) van artikel 21(1) aan hom uitgereik sal word (10) as hy om so ‘n lasbrief aansoek doen, (11) en dat die vertraging deur so ‘n lasbrief te verkry (12) die doel van die deursoeking sal verydel.

6.2 Uitwerking van borgtog: (12)

(1) Is dat ‘n beskuldigde wat in bewaring is (2) uit bewaring vrygelaat word (3) by betaling van die bedrag geld wat vir sy borgtog bepaal is (4) of by die verstrekking van ‘n waarborg om dit te betaal (5) en dat hy by die plek (6) datum (7) en tyd wat vir sy verhoor bepaal is (8) of waartoe die verrigtinge wat betrekking het op die misdryf ten opsigte waarvan die beskuldigde op borgtog vrygelaat word, verdaag word (9) en dat die vrylating, tensy eerder ingevolge bedoelde bepalings beëindig (10) voortduur totdat uitspraak deur ‘n hof gegee word ten opsigte van die aanklag wat op die betrokke misdryf betrekking het (11) of, waar vonnis nie onverwyld na uitspraak opgelê word nie en die betrokke hof borgtog verleng (12) totdat vonnis opgelê word.

6.3 Inhegtenisneming sonder lasbrief (privaat persoon): (13)

(1) ‘n Private persoon kan iemand sonder lasbrief in hegtenis neem wat ‘n Bylae 1 bedoelde misdryf in sy teenwoordigheid pleeg of poog om te pleeg (2) of wat hy redelikerwys verdink so ‘n misdryf gepleeg het, (3) wat hy redelickerwys vermoed ‘n misdryf gepleeg het en aan die vlug is van (4) en onmiddellik agtervolg word deur iemand wat bedoelde private persoon redelickerwys meen die bevoegdheid besit om daardie persoon weens daardie misdryf in hegtenis te neem, (5) wat hy kragtens ‘n wet bevoeg is om ten opsigte van ‘n in daardie bepaalde misdryf sonder lasbrief in hegtenis te neem, (6) wat hy aan die baklei sien. (7) ‘n Privaat persoon wat iemand kragtens subartikel (1)(a) sonder lasbrief in hegtenis mag neem, kan daardie persoon

onverwyld agtervolg, (8) en 'n ander private persoon aan wie die doel van die agtervolging bekend gemaak is, (9) kan daarby aansluit en hulp verleen. (10) Die eienaar, wettige okkupant of persoon in beheer van eiendom (11) waarop of met betrekking waartoe daar gevind word dat iemand 'n misdryf pleeg (12) en iemand deur bedoelde eienaar, okkupant of persoon in beheer daartoe gemagtig, (13) kan so iemand sonder lasbrief in hegtenis neem.

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VRAAG 7

7.1 **Faktore (beskuldigde poog om verhoor te ontdui)**: (10)

(1) Die beskuldigde se emosionele, familie-, gemeenskaps- of beroepsgebondenheid met die plek waar hy of sy verhoor staan te word (2) die bates waарoor die beskuldigde beskik en waar sodanige bates geleë is (3) die vermoëns en reisdokumente waарoor die beskuldigde beskik wat hom of haar in staat mag stel om die land te verlaat (4) die mate waarin die beskuldigde kan bekostig om borggeld wat vasgestel mag word te verbeur (5) die vraag of die beskuldigde se uitlewering geredelik bewerkstellig sal kan word indien hy of sy oor die grense van die Republiek sou vlug (6) die aard en erns van die aanklag waarop die beskuldigde tereg staan (7) die sterkte van die saak teen die beskuldigde en die aansporing wat dit vir hom of haar mag inhou om sy of haar verhoor te probeer ontdui (8) die aard en erns van die straf wat waarskynlik opgelê sal word indien die beskuldigde op die aanklagte teen hom of haar skuldig bevind sou word (9) die bindendheid en afdwingbaarheid van borgtoggvoorraades wat opgelê mag word en die gemak waarmee sodanige voorraades verbreek kan word (10) enige ander faktor wat na die oordeel van die hof in ag geneem behoort te word.

7.2 **Gebruik van geweld by inhegtenisneming**: (10)

(1) Indien iemand wat ingevolge hierdie Wet gemagtig is om 'n ander in hegtenis te neem (2) of daarmee behulpsaam te wees, (3) poog om so 'n persoon in hegtenis te neem (4) en so 'n persoon hom teen die poging verset (5) en nie sonder die aanwending van geweld in hegtenis geneem kan word nie, (6) of vlug wanneer dit duidelik is dat 'n poging gedoen word om hom in hegtenis te neem, (7) of hom teen die poging verset en vlug, (8) kan die aldus gemagtigde persoon, ten einde die inhegtenisneming uit te voer, die geweld aanwend (9) wat in die omstandighede

redelikerwys nodig is om die verset te bowe te kom (10) of om die betrokke persoon te vehinder om te vlug.

7.3 **Beskikking oor voorwerpe (strafregtelike verrigtinge ingestel en erkenning van skuld betaal):** (13)

(1) Die voorwerp word aan die persoon teruggegee van wie dit in beslag geneem is, (2) indien so 'n persoon daardie voorwerp wettiglik mag besit, (3) of, indien so 'n persoon daardie voorwerp nie wettiglik mag besit nie, (4) aan die persoon wat dit wettiglik mag besit, (5) waarop die bepalings van artikel 31(2) met betrekking tot so 'n persoon van toepassing is (6) en word per aangetekende pos (7) by sy laasbekende adres in kennis gestel dat hy besit van die voorwerp mag neem, (8) en indien so 'n persoon versuim om die voorwerp (9) binne 30 dae vanaf die datum van so 'n kennisgewing af te haal, (10) word die voorwerp aan die Staat verbeur. (11) Indien niemand so 'n voorwerp wettiglik mag besit nie (12) of indien die polisiebeampte belas met die ondersoek redelikerwys nie weet van iemand wat so 'n voorwerp wettiglik mag besit nie, (13) word die voorwerp aan die Staat verbeur.

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VRAAG 8

8.1 **Inhegtenisneming sonder lasbrief (polisiebeampte):** (16)

Misdryf pleeg of poog in teenwoordigheid / redelikerwys verdink Bylae I misdryf gepleeg het, behalwe ontsnapping / ontsnap het of poog / huisbraak- of motorbraakgereedskap besit nie tot bevrediging rekenskap kan gee nie / in besit van enigiets redelikerwys vermoed gesteelde goedere te wees of op oneerlike wyse verkry is, redelikerwys verdink word 'n misdryf ten opsigte daarvan te gepleeg het / plek in nag redelike gronde verskaf om te vermoed dat misdryf gepleeg het of op punt staan / redelikerwys verdink onwettig in besit van vee of produkte / redelikerwys verdink misdryf ingevolge wet wat vervaardiging, verskaffing, besit of vervoer van sterk drank of afhanklikheidsvormende medisyne of besit of beskikking oor wapens of ammunisie reël / dobbelhuis of by dobbeltafel in stryd met wet / by uitvoering van sy plig belemmer / betrokke was by handeling buite Republiek wat strafbaar sou wees indien binne die Republiek gepleeg / verbode immigrant / droster uit die Weermag / verdink word dat nie voorwaarde nagekom het by uitstel van vonnis of opskorting / versuim om boete of gedeelte daarvan op datum by hofbevel bepaal te betaal / versuim om oor te gee ten einde periodieke gevangenisstraf te ondergaan.

b.o.

8.2 Deursoeking van perseel deur grondbewoner: (15)

(1) Iemand wat wettiglik toesig het oor of in besit is van 'n perseel (2) en wat redelikerwys vermoed dat gesteelde vee of produkte, soos omskryf in 'n wet betreffende die diefstal van vee of produkte, (3) op of in die betrokke perseel is, (4) of dat 'n voorwerp in stryd met 'n wet betreffende sterk drank, (5) afhanglikheidsvormende medisyne, (6) wapens en ammunisie (7) of ontplofbare stowwe (8) daarop of daarin gelaat is (9) of in die bewaring of besit van iemand op die perseel is, (10) kan te eniger tyd (11) indien 'n polisiebeampte nie geredelik beskikbaar is nie, (12) die perseel betree ten einde dit en enige persoon daarop of daarin te deursoek, (13) en indien enige sodanige vee, produkte of voorwerp gevind word, (14) moet hy dit in besit neem (15) en onverwyld aan 'n polisiebeampte oorhandig.

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BEANTWOORD SLEGS VRAAG 9 OF VRAAG 10.**VRAAG 9**9.1 Uitreik van skriftelike kennisgewing: (12)

(1) Indien 'n beskuldigde na bewering 'n misdryf gepleeg het (2) en 'n vredesbeampte op redelike gronde dink dat 'n landdroshof, by skuldigbevinding van so 'n beskuldigde weens daardie misdryf, (3) nie 'n boete sal oplê wat die bedrag wat die Minister van tyd tot tyd by kennisgewing in die Staatskoerant bepaal, te bowe gaan nie, (4) kan so 'n vredesbeampte, hetsy die beskuldigde in bewaring is of nie, (5) aan die beskuldigde 'n skriftelike kennisgewing oorhandig wat die naam, (6) die woonadres (7) en die beroep of status van die beskuldigde vermeld, (8) die beskuldigde aansê om by 'n plek en op 'n datum en op 'n tyd te verskyn, (9) 'n endossement ooreenkomstig artikel 57 bevat dat die beskuldigde sy skuld ten opsigte van die betrokke misdryf kan erken (10) en dat hy 'n bepaalde boete ten opsigte daarvan kan betaal sonder om in die hof te verskyn, (11) en 'n sertifikaat onder naamtekening van die vredesbeampte bevat dat hy die oorspronklike van die bedoelde skriftelike kennisgewing aan die beskuldigde oorhandig het (12) en dat hy die betekenis daarvan aan die beskuldigde verduidelik het.

b.o.

9.2 Oplê van bevestiging in plaas van eed: (12)

(1) Iemand wat verplig is of kan word om die eed af te lê (2) en wat teen die aflê van die eed beswaar maak, (3) wat teen die aflê van die eed in die voorgeskrewe vorm beswaar maak, (4) wat nie die eed in die voorgeskrewe vorm as bindend vir sy gewete beskou nie, (5) wat die voorsittende regter of regterlike amptenaar meedeel dat hy geen godsdienstige geloof het nie of dat die aflê van die eed met sy godsdienstige geloofstrydig is, (6) doen 'n bevestiging in die volgende woorde in plaas van die eed (7) en op las van die voorsittende regterlike amptenaar of, in die geval van 'n hoër hof, die voorsittende regter of die griffier van die hof: (8) "ek bevestig plegtig dat die getuenis wat ek sal aflê, die waarheid, (9) die hele waarheid en net die waarheid sal wees". (10) So 'n bevestiging het dieselfde regskrag en -gevolg asof die persoon wat dit doen die eed afgelê het. (11) Die geldigheid van 'n eed behoorlik deur 'n getuie afgelê (12) word nie geraak indien so 'n getuie op enige van die in subartikel (1) bedoelde gronde weier om die eed af te lê nie.

9.3 Oopbreek van perseel (inhegtenisneming): (8)

(1) Iemand wat 'n ander wettiglik t o v 'n misdryf in hegtenis mag neem (2) en wat weet of redelikerwys vermoed (3) dat die bedoelde persoon op 'n perseel is, (4) kan, indien hy eers hoorbaar toegang eis (5) en die doel bekend maak waarvoor hy toegang soek (6) en nie toegang verkry nie, (7) perseel oopbreek, binne gaan en deursoek (8) ten einde die inhegtenisneming uit te voer.

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OF**VRAAG 10**10.1 Lewering van inkriminerende getuienis vir die vervolging: (12)

(1) Wanneer die aanklaer die hof by strafregtelike verrigtinge meedeel dat 'n persoon wat as 'n getuie ten behoeve van die vervolging opgeroep is, (2) deur die vervolging gevra sal word om op vrae te antwoord wat so 'n getuie kan inkrimineer (3) ten opsigte van 'n misdryf deur die aanklaer uiteengesit (4) moet die hof, indien oortuig dat bedoelde getuie andersins 'n bevoegde getuie vir die vervolging is, (5) daardie getuie meedeel dat hy verplig is om getuienis by die betrokke verrigtinge af te lê, (6)

b.o.

dat vrae aan hom gestel kan word wat hom kan inkrimineer ten opsigte van 'n misdryf deur die klaer uiteengesit, (7) dat hy verplig sal wees om op elke vraag te antwoord wat aan hom gestel word, hetsy deur die vervolging, die beskuldigde of die hof, (8) dat indien hy op alle vrae aan hom gestel openhartig en eerlik antwoord, (9) hy gevrywaar sal wees teen vervolging, (10) en moet so 'n getuie daarop getuienis aflê en op enige vraag antwoord wat aan hom gestel word, hetsy deur die vervolging, die beskuldigde of die hof, (11) nieteenstaande dat die antwoord daarop hom kan inkrimineer ten opsigte van die misdryf aldus deur die aanklaer uiteengesit (12) of ten opsigte van 'n misdryf ten opsigte waarvan 'n uitspraak van skuldig geoorloof sal wees op 'n aanklag betreffende die misdryf aldus uiteengesit.

10.2 Versuim van getuie om strafregtelike verrigtinge by te woon / aanwesig te bly: (12)

(1) Iemand wat gedagvaar word om strafregtelike verrigtinge by te woon (2) en wat versuim om daardie verrigtinge by te woon of daarby aanwesig te bly, (3) en iemand wat deur die hof gewaarsku word om by strafregtelike verrigtinge aanwesig te bly (4) en wat versuim om by daardie verrigtinge aanwesig te bly, (5) en iemand aldus gedagvaar of aldus gewaarsku wat versuim om te verskyn (6) by die plek (7) die datum (8) en die tyd (9) waartoe die betrokke verrigtinge verdaag word (10) of wat versuim om by die verrigtinge soos aldus verdaag, aanwesig te bly, (11) is aan 'n misdryf skuldig (12) en strafbaar met die straf in subartikel (2) beoog (*bepalings van Artikel 170(2) mutatis mutandis van toepassing*).

10.3 Wederregtelike deursoeking deur polisiebeampte: (8)

(1) 'n Polisiebeampte wat in stryd optree met die magtiging van 'n visenteringslasbrief ingevolge artikels 21 of 25(1) uitgereik, (2) of wat, sonder dat hy ingevolge hierdie Hoofstuk daartoe gemagtig is (3) 'n persoon of houer of perseel visenteer (4) of 'n voorwerp in beslag neem of aanhou, (5) of 'n handeling beoog in subparagraph (i), (ii) of (iii) van artikel 25(1) verrig, (6) is aan 'n misdryf skuldig (7) en by skuldigbevinding strafbaar met 'n boete van hoogstens R600 of met gevangenisstraf vir 'n tydperk van hoogstens ses maande, (8) en is benewens die straf onderhewig aan 'n toekenning ingevolge subartikel (2).

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TOTAAL: [300]

EINDE