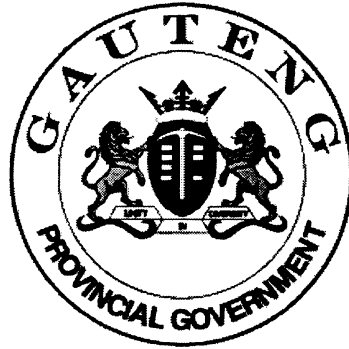


# GAUTENG DEPARTMENT OF EDUCATION



## SENIOR CERTIFICATE EXAMINATION

OCTOBER / NOVEMBER

2006

### LAW OF CRIMINAL PROCEDURE AND EVIDENCE

**SG**

LAW OF CRIMINAL PROCEDURE & EVIDENCE SG



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SG

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

**SENIOR CERTIFICATE EXAMINATION**

**NOVEMBER 2006**

**TIME: 3 HOURS**

**MARKS: 300**

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**INSTRUCTIONS:**

1. Answer questions 1 to 8.
2. Answer EITHER question 9 OR 10.

QUESTION 1

Choose the correct answer from the given possible answers, and mark only the correct answer in the inside leaf of the examination answer book (multiple-choice questions) next to the corresponding question number. Mark only **one** letter (choice) per question. If more than **one** letter (choice) is marked per question, the whole question **will be** marked as **incorrect**. **Do not** repeat the whole answer in your answer book.

**EXAMPLE:**

The State President of South Africa is –

- A. George Bush.
- B. F W de Klerk.
- C. Thabo Mbeki.
- D. Jacob Zuma.
- E. None of the above.

A	B	<del>C</del>	D	E
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1.1 Search of a person is conducted only ...

- A. on authority of a search warrant.
- B. if the person conducting the search is a female.
- C. if the person consents to the search.
- D. A and C.
- E. None of the above.

1.2 "Premises" includes the following:

- A. A vehicle
- B. An aircraft
- C. A ship
- D. All of the above.
- E. None of the above.

1.3 A warrant of arrest ...

- A. may be executed by a member of Correctional Services (Prisons Services).
- B. may be issued by a justice upon the written application of a court interpreter.
- C. may be issued on any day.
- D. All of the above.
- E. A and C.

- 1.4 The wife or husband of an accused shall be competent, but not compellable, to give evidence for the prosecution in criminal proceedings, but shall be competent and compellable to give evidence for the prosecution where the accused is charged with the following offences:
- A. Bigamy, incest and abduction.
  - B. A contravention of any provision of Section 11(1) of the Maintenance Act, 1963 (Act No. 23 of 1963).
  - C. Perjury committed in connection with or for the purpose of any judicial proceedings instituted by one of them against the other.
  - D. All of the above.
  - E. B and C.
- 1.5 Any person who is authorized under the Criminal Procedure Act, 1977 (Act No. 51 of 1977), to arrest or to assist in arresting another, may, in order to effect the arrest, ...
- A. use such force as may in the circumstances be reasonably necessary to overcome the resistance.
  - B. in all instances always use force.
  - C. use the necessary force even where the person submits to the arrest.
  - D. All of the above.
  - E. A and C.
- 1.6 A person is guilty of an offence, if such person ...
- A. escapes from custody after lawful arrest and before he has been lodged in a prison.
  - B. conceals any escapee who escaped from custody after lawful arrest and before he has been lodged in a prison.
  - C. aids such an arrested person to escape from custody after lawful arrest and before he has been lodged in a prison.
  - D. All of the above.
  - E. None of the above.
- 1.7 The court may refuse to grant bail to an accused where there is a likelihood that the accused, if he or she was released on bail, will endanger the safety of the public or any particular person or the public interest, or will commit a Schedule 1 offence. The following factors may be taken into account by the court in considering whether this likelihood has been established:
- A. Any disposition to violence on the part of the accused, as is evident from his or her past conduct.
  - B. The prevalence of a particular type of offence.
  - C. The assets held by the accused and where such assets are situated.
  - D. A and B.
  - E. All of the above.

- 1.8 A peace officer may call upon any person whom he has the power to arrest, to furnish such peace officer with his full name and address ...
- A. who may be able to give evidence in regard to the commission or suspected commission of any offence.
  - B. who is reasonably suspected of having committed or of having attempted to commit an offence.
  - C. and, any person who furnishes to the peace officer a name or address which the peace officer reasonably suspects to be false, may be arrested forthwith without a warrant and be detained for a period not exceeding 48 hours until such name or address has been verified.
  - D. A and B.
  - E. All of the above.
- 1.9 An arrest is effected with or without a warrant and ...
- A. unless the person to be arrested submits to custody, by actually touching his body.
  - B. if the circumstances so require, by forcibly confining his body.
  - C. the person effecting an arrest shall, at the time when the accused appears in court, inform the arrested person of the cause of arrest.
  - D. A and B.
  - E. A, B and C.
- 1.10 An accused who is in custody in respect of an offence may, before his or her first appearance in a lower court, be released on bail ...
- A. if the accused is in custody in respect of any offence, other than an offence referred to in Part I or Part II of Schedule 2.
  - B. in all instances where the accused demands it.
  - C. by any police official of or above the rank of non-commissioned officer in consultation with the police official charged with the investigation.
  - D. All of the above.
  - E. A and C.
- 1.11 The payment of bail money by a third person, is ...
- A. not allowed.
  - B. not allowed if the police official concerned has reason to believe that such person, at any time before or after depositing such bail money, has been or will be indemnified against loss of such bail money.
  - C. allowed if the police official concerned has reason to believe that the depositor has received or will receive any financial benefit in connection with the deposit of such bail money.
  - D. B and C.
  - E. None of the above.

- 1.12 In connection with admission of guilt fines ...
- A. a public prosecutor attached to the court concerned does not dispose of the authority to reduce an admission of guilt fine on good cause shown.
  - B. a higher admission of guilt fine may be imposed than the prescribed fine determined by the Minister in the Gazette.
  - C. a judicial officer presiding at the court in question may not set aside the conviction and sentence if it appears that the sentence is inadequate.
  - D. B and C.
  - E. None of the above.
- 1.13 On the arrest of any person, the person making the arrest may ...
- A. if he is a peace officer, search the person arrested and seize any article referred to in Section 20 which is found in the possession of the person arrested.
  - B. if he is not a peace officer, seize any article referred to in Section 20 which is in the possession of the person arrested and shall forthwith deliver any such article to a police official.
  - C. place in safe custody any object found on the person arrested and which may be used to cause bodily harm to himself or others.
  - D. All of the above.
  - E. A and C.
- 1.14 The State may seize anything ...
- A. which may afford evidence of the suspected commission of an offence in Australia.
  - B. which is lawfully in possession of its owner.
  - C. which is intended to be sold by its owner.
  - D. All of the above.
  - E. None of the above.
- 1.15 With reference to the forfeiture of articles to the State ...
- A. if the State has already disposed of the property, and the court at any time within a period of three (3) years with effect from the date of declaration of forfeiture finds that such property belongs to the person claiming such property, the declaration of forfeiture must be set aside and the person be compensated to the extent to which the State has been enriched by such disposal.
  - B. the court must declare forfeited to the State any article that is forged.
  - C. if property has already been forfeited to the State, there exists a right of appeal by a person.
  - D. All of the above.
  - E. None of the above.

- 1.16 A police official who, in the investigation of an offence, reasonably suspects that a person who may furnish information with reference to any such offence is on any premises, may ...
- A. without a warrant enter such premises, with the consent of the occupier thereof, for the purpose of interrogating such person and obtaining a statement from him.
  - B. without a warrant enter such premises, without the consent of the occupier thereof, for the purpose of interrogating such person and obtaining a statement from him.
  - C. without a warrant enter such premises for the purpose of arresting such person and obtaining a statement from him.
  - D. All of the above.
  - E. None of the above.
- 1.17 The following crimes qualify as Part II Schedule 2 crimes:
- A. High treason, sedition and offences relating to the coinage.
  - B. Public violence, murder and attempted rape.
  - C. Assault when a dangerous wound is inflicted, breaking into premises with intent to commit an offence and incitement to arson.
  - D. A and C.
  - E. B and C.
- 1.18 A "peace officer" includes the following persons:
- A. A traditional healer.
  - B. An ambulance man.
  - C. A fireman.
  - D. All of the above.
  - E. None of the above.
- 1.19 With reference to bail ...
- A. the effect of bail is that the accused shall be in lawful custody and that he shall be detained in custody.
  - B. only the court is entitled to grant bail to an accused.
  - C. the court is entitled to order that evidence be placed before the court in order to reach a decision whether to grant bail.
  - D. A and C.
  - E. None of the above.
- 1.20 Evidence of any confession made by any person in relation to the commission of any offence shall be admissible in evidence against such person at criminal proceedings relating to such offence, if it is amongst others proved that ...
- A. such confession has been freely and voluntarily made by such person.
  - B. such a person has not been unduly influenced thereto.
  - C. such a person was in his sound and sober senses when he made the confession.
  - D. All of the above.
  - E. B and C.

## QUESTION 2

Fill in the missing words. Write down the number and correct word(s) only. **Do not** repeat the whole paragraph. **EXAMPLE: 2.1 (a) blue**

2.1 Section 37 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), states that, any police official may take the **(a)** ....., **(b)** ..... or **(c)** ..... or may cause any such prints to be taken of any person **(d)** ..... upon any charge, of any such person released on **(e)** ..... or on **(f)** ..... under Section 72, of any person arrested in respect of any matter referred to in paragraph *(n)*, *(o)* or *(p)* of Section 40(1), of any person upon whom a **(g)** ..... has been served in respect of any offence referred to in **(h)** ....., or any offence with reference to which the **(i)** ....., **(j)** ..... or **(k)** ..... of any licence or permit or the disqualification in respect of any licence or permit is permissible or prescribed, of any person **(l)** ..... by a court or deemed under Section 57(6) to have been convicted in respect of any offence which the Minister has by notice in the Gazette declared to be an offence for the purposes of this subparagraph, make a person referred to in paragraph *(a)* **(i)** or **(ii)** available or cause such person to be made available for **(m)** ..... in such condition, position or apparel as the police official may determine, take such steps as he may deem necessary in order to ascertain whether the body of any person referred to in paragraph *(a)* **(i)** or **(ii)** has any **(n)** ....., **(o)** ..... or **(p)** ..... or shows any condition or appearance, provided that no police official shall take any **(q)** ..... of the person concerned nor shall a police official make any examination of the body of the person concerned where that person is a female and the police official concerned is not a female, take a **(r)** ..... or cause to be taken of a person referred to in paragraph *(a)* **(i)** or **(ii)**.

(18)

2.2 Section 24 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), states that, any person who is **(a)** ..... or **(b)** ..... of any premises and who reasonably suspects that **(c)** ..... or **(d)** ....., as defined in any law relating to the **(e)** ..... of **(f)** ....., is on or in the premises concerned, or that any article has been placed thereon or therein or is in the **(g)** ..... of any person upon or in such premises in contravention of any law relating to **(h)** ....., **(i)** ....., **(j)** ..... or **(k)** ....., may at any time, if a **(l)** ..... is not readily available, **(m)** ..... such premises for the purpose of **(n)** ..... such premises and any person thereon or therein, and if any such property is found, he shall **(o)** ..... thereof and **(p)** ..... deliver it to a **(q)** .....

(17)

[35]



**QUESTION 3**

Write down only the number of the statement or word in **COLUMN A** and next to it the letter of the appropriate answer from **COLUMN B**. **Do not** repeat the whole answer. **EXAMPLE: 1.1 b**

<b>COLUMN A</b>		<b>COLUMN B</b>	
3.1	Schedule 2 Part II crime	a.	Authority for arrest
3.2	Telegraphic authority	b.	Kidnapping
3.3	Concerned in the commission of an offence	c.	An offence under any law relating to the illicit possession, conveyance or supply of intoxicating liquor
3.4	Effect of arrest	d.	Decent and orderly
3.5	Written notice	e.	Period not exceeding 7 days at a time
3.6	Schedule 2 Part I crime	f.	May be issued by a peace officer
3.7	Search	g.	Section 20 article
3.8	Schedule 2 Part III crime	h.	Deemed to have been convicted and sentenced
3.9	Day	i.	Person labouring under imbecility of mind due to drugs
3.10	Confession	j.	Sedition
3.11	Night	k.	Accused can be convicted on account of this
3.12	Ground for the refusal of bail	l.	Lawful custody
3.13	Incompetent witness	m.	Forfeited to the State
3.14	The wife or husband of an accused is competent and compellable, to give evidence for the prosecution	n.	Person who issued search warrant may, in writing, authorize the execution thereof during this period
3.15	Summons	o.	Intimidation of witnesses
3.16	Postponement of bail proceedings	p.	Search warrant is normally executed during this period
3.17	Payment of admission of guilt fine by accused	q.	Issued by the clerk of the court
3.18	Counterfeit money	r.	Bigamy

[36]

**QUESTION 4**

Are the following statements **TRUE** or **FALSE**? **DO NOT** discuss. Only write down whether the statement is **TRUE** or **FALSE**.

- 4.1 Every female inhabitant of the Republic of an age not below sixteen and not exceeding sixty years shall, when called upon by any police official to do so, assist such police official in arresting any person.
- 4.2 During criminal proceedings, a husband/wife is compelled to disclose a communication which his/her wife/husband made to him/her during the marriage.
- 4.3 Any person who escapes or attempts to escape from custody after he has been lawfully arrested, but before he has been lodged in any prison, police cell or lock-up, shall not be guilty of an offence.
- 4.4 The effect of an arrest is that the person arrested is in lawful custody and that he shall be deemed to have been convicted of the concerned offence.
- 4.5 Somebody who has been arrested, should appear before a court within 48 hours of the arrest, but if the period of 48 hours expires on any court day before four o' clock in the afternoon, the said period shall be deemed to expire at four o' clock in the afternoon of the court day next succeeding.
- 4.6 A search warrant may be issued on any day, except a Sunday, public holiday, Christmas Day or Good Friday.
- 4.7 A summons may be issued by any peace officer on account of information given under oath.
- 4.8 If an accused is in custody, the effect of a written notice issued in terms of Section 56(1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall be that he is in lawful custody and that he shall be detained in custody until he is lawfully discharged or released from custody.
- 4.9 A person proved to suffer from a hearing disability, is incompetent to give evidence.
- 4.10 "Lower court" in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), may be defined as any court established under the provisions of the Supreme Court Act, 1959 (Act No. 59 of 1959).
- 4.11 An accused cannot be found guilty based upon a single testimony of a competent witness.
- 4.12 A lower court shall have jurisdiction to try an offence of escaping from lawful custody.
- 4.13 A search warrant is under all circumstances only executed during the day.
- 4.14 If an accused under the age of 18 years is in custody in respect of any offence, a police official must detain the accused in lawful custody until the verdict is delivered by a competent court.

- 4.15 A search warrant may be issued on a court day after four o' clock in the afternoon.
- 4.16 Evidence of any sort may be admitted at criminal proceedings which was pointed out by an accused appearing at such proceedings.
- 4.17 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).
- 4.18 The search of a woman may only be conducted upon instruction of the court.
- 4.19 The court releasing an accused on bail, may order that the accused deposit the determined sum of money with a correctional official at the prison where the accused is in custody.
- 4.20 An accused who is under the age of eighteen years may be assisted by his parent at criminal proceedings.
- 4.21 An accused may be convicted of any offence on the single evidence of a confession by such accused that he committed the offence in question, without the confession being confirmed in a material respect.
- 4.22 A summons must always be delivered to the accused personally and may not be delivered to any other person.
- 4.23 If the question of the possible release of the accused on bail is not raised by the accused or the prosecutor, the court has no further role to play in the matter.
- 4.24 A magistrate qualifies in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), as a "peace officer".
- 4.25 Any magistrate or justice may issue a warrant for the arrest of any person upon the verbal application from a non-commissioned officer of police.
- 4.26 Any confession which is inadmissible in evidence against the person who made it, shall become admissible against him if such evidence is, in the opinion of the judge or the judicial officer presiding at such proceedings, favourable to the prosecution (*State*).
- 4.27 An original official document can only be proved at criminal proceedings, by producing the original document at such proceedings.
- 4.28 In bail proceedings the court may, in respect of matters that are in dispute between the accused and the prosecutor, acquire in an informal manner the required information.
- 4.29 The provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) shall not derogate from any power conferred by any other law to enter any premises.
- 4.30 A peace officer will not always be a police officer.

[60]

P.T.O.

**QUESTION 5**

- 5.1 Mention the crimes that appear in Schedule I of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). (21)
- 5.2 Mention the different pleas that are available to an accused in terms of Section 106 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). (8)
- 5.3 Mention the methods of securing the attendance of an accused in court. (4)  
[33]

**QUESTION 6**

- 6.1 Give an exposition of the provisions relating to the arrest by a private person without a warrant. (13)
- 6.2 A police official who releases an accused on a warning must comply with certain requirements. Give an exposition of such a police official's responsibilities. (7)
- 6.3 Give an exposition of the provisions relating to the breaking open of a premises for the purpose of arrest. (8)  
[28]

**QUESTION 7**

- 7.1 A peace officer may in certain circumstances arrest a person without a warrant. Mention these circumstances. (16)
- 7.2 In terms of Section 28 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), a wrongful search by a police official constitutes an offence. Give an exposition of this provision. (8)  
[24]

**QUESTION 8**

- 8.1 Give an exposition of the provisions regarding the circumstances under which unsworn or unaffirmed evidence shall be admissible. (10)
- 8.2 Give an exposition of the provisions relating to the failure by a witness to attend criminal proceedings or to remain in attendance. (12)  
[22]

**ANSWER EITHER QUESTION 9 OR QUESTION 10.**

**QUESTION 9**

- 9.1 A police official who seizes an article or to whom an article which was seized by another person is delivered, must dispose of the article in a prescribed manner. Give an exposition of the steps to be taken by such a police officer. (12)
- 9.2 The court may refuse to grant bail to an accused where there is a likelihood that the accused will attempt to evade his or her trial. Name the factors the court may take into account in considering whether this likelihood has been established. (10)  
[22]

**OR**

**QUESTION 10**

- 10.1 Give an exposition of the provisions of Section 204 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), relating to the rendering of incriminating evidence by a witness for the prosecution. (12)
- 10.2 An accused may at his first appearance in a lower court apply to be released on bail. Describe the relevant provision. (10)  
[22]

**TOTAL: [300]**

**END**