NOVEMBER 2012 EXAMINATION

DATE: 5 NOVEMBER 2012

TIME: 09H00 – 11H00
TOTAL: 100 MARKS
DURATION: 2 HOURS
PASS MARK: 40%

(YX-98)
MILITARY LAW

THIS EXAMINATION PAPER CONSISTS OF 4 SECTIONS:

SECTION A: CONSISTS OF 5 TRUE OR FALSE QUESTIONS
ANSWER ALL THE QUESTIONS (10 MARKS)

SECTION B: CONSISTS OF 3 SHORT QUESTIONS
ANSWER ALL THE QUESTIONS (20 MARKS)

SECTION C: CONSISTS OF 6 LONG ANSWER QUESTIONS
ANSWER ALL THE QUESTIONS (50 MARKS)

SECTION D: CONSISTS OF 2 INTERPRETATIVE QUESTIONS
ANSWER ONE OF THE QUESTIONS (20 MARKS)

INSTRUCTIONS:

1. Read the following instructions carefully before answering the paper, as failure to act upon them will result in a loss of marks.
2. Write your answers in your answer book, which is provided in the exam.
3. Ensure that your name and student number are clearly indicated on your answer book.
4. Write your answers in either blue or black ink in your answer book.
5. Read each question very carefully before you answer it and number your answers exactly as the questions are numbered.
6. Begin with the question for which you think you will get the best marks.
7. Note the mark allocations for each question – give enough facts to earn the marks allocated. Don't waste time by giving more information than required.
8. You are welcome to use diagrams to illustrate your answers.
9. Please write neatly – we cannot mark illegible handwriting.
10. Any student caught cheating will have his or her examination paper and notes confiscated. The College will take disciplinary measures to protect the integrity of these examinations.
11. If there is something wrong with or missing from your exam paper or your answer book, please inform your invigilator immediately. If you do not inform your invigilator about a problem, the College will not be able to rectify it afterwards, and your marks cannot be adjusted to allow for the problem.
12. This paper may be removed from the examination hall after the examination has taken place.

Examiner: W Enoch
TRUE OR FALSE QUESTIONS

Indicate whether the following statements are true or false. Rewrite the false answers to make them true.

1. The object of military law is to maintain discipline among soldiers and other persons who form part of the armed forces of a country.

2. Section 5 of the MDC covers military offences that endanger the safety of forces and that are punishable by the maximum sentence.

3. A Court of Military Appeals is appointed by the Minister of Defence, who may also appoint more than one Court of Military Appeals, to review any proceedings, findings, or sentences of any military court.

4. The beginning of the military justice process for an offender is very often the appearance of the offender before his or her Officer Commanding, or a field officer authorised by the Officer Commanding to hold disciplinary hearings.

5. Cashiering is only applicable to non-commissioned officers.

[5 x 2 = 10]
SECTION B: SHORT QUESTIONS (20 MARKS)

ANSWER ALL THE QUESTIONS

QUESTION 1

Describe the three principles of military justice. [3]

QUESTION 2

The death penalty is no longer a punishment option for a military court. Therefore, the maximum sentence that a military court can impose for an offence in terms of section 4 is imprisonment. For all other offences, a military court may impose a sentence that is less than the maximum indicated for the offence.

If the accused person were a private, what sentences would the military court be able to impose? [9]

QUESTION 3

List the punishments that can be imposed for warrant officers and non-commissioned officers. [8]

[20]
SECTION C: LONG ANSWER QUESTIONS (50 MARKS)

ANSWER ALL THE QUESTIONS

QUESTION 1

In order to effect a lawful arrest without a warrant, a person subject to the Military Discipline Code must perform certain actions.

Describe the actions required for a lawful arrest. [10]

QUESTION 2

The description of the offences makes no reference to a specific blood alcohol level that is unacceptable, as it is only necessary that the accused be under the influence of intoxicating liquor or narcotic drugs.

Proof of drunkenness can be provided by means of affidavits.

Identify the descriptions of drunkenness that can be included in an affidavit as proof of drunkenness. [10]

QUESTION 3

Identify the categories that offences relating to military service fall into. [6]

QUESTION 4

List the offences relating to orders. [7]

QUESTION 5

Everyone who is detained, including every sentenced prisoner, has rights according to the Constitution.

Explain these rights. [10]

QUESTION 6

Give the circumstances under which it is acceptable to warn an offender instead of arresting him or her. [7]

[50]
SECTION D: INTERPRETATIVE QUESTIONS (20 MARKS)

ANSWER ONE OF THE QUESTIONS

QUESTION 1
Discuss disobeying lawful commands or orders as one of the offences relating to orders. [20]

OR

QUESTION 2
Discuss disobedience as one of the offences relating to orders. [20]

Section A: 10 marks
Section B: 20 marks
Section C: 50 marks
Section D: 20 marks
TOTAL: 100 MARKS