NOVEMBER 2013 EXAMINATION

DATE: 4 NOVEMBER 2013

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 4 SHORT QUESTIONS
Answer ALL THE QUESTIONS (20 MARKS)

SECTION C: CONSISTS OF 5 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.
TRUE OR FALSE QUESTIONS

Indicate whether the following statements are True or False. Motivate all your answers.

1. An arm is any firearm, excluding a cannon, machine gun, machine pistol or toy pistol.

2. A court of a Senior Military Judge will be presided over by an officer, not below the rank of major, with no less than five years' experience either as an advocate, or attorney of the High Court.

3. The Adjutant General must be an appropriately qualified SANDF officer.

4. The investigation of any case in terms of rule 8 includes the interviewing of any person who is or may be able to furnish information in connection with the case.

5. Anyone arrested for allegedly committing an offence has the right to remain silent. [5 × 2 = 10]
MILITARY LAW

SECTION B: SHORT QUESTIONS (20 MARKS)

ANSWER ALL THE QUESTIONS

QUESTION 1
Describe your understanding of the term 'Articles of War'. [3]

QUESTION 2
Give three examples of situations where a military police official could be expected to exercise his or her powers of arrest. [6]

QUESTION 3
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. The maximum sentence for assaulting a superior officer is imprisonment for a period of five years.

Provide any five sentences that the military court may impose if the accused is a private. [5]

QUESTION 4
Identify the categories that offences relating to military service fall into. [6]

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

ANSWER ALL THE QUESTIONS

QUESTION 1

Offences in relation to property cover a wide range of varying degrees of seriousness.

List any eight of these offences. [8]

QUESTION 2

The following table represents the summary of the three different military courts. Complete the table by writing the relevant letter and your answer, for example, (a) 5 years’ imprisonment.

<table>
<thead>
<tr>
<th>Commanding Officer’s Disciplinary Hearing</th>
<th>Court of a Military Judge</th>
<th>Court of a Senior Military Judge (one judge)</th>
<th>Court of a Senior Military Judge (three judges)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Presiding officer’s rank</td>
<td>Major</td>
<td>(a)</td>
<td>Colonel</td>
</tr>
<tr>
<td>Experience required</td>
<td>N/A</td>
<td>3 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Trial limitations</td>
<td>(d)</td>
<td>Murder, treason, rape, culpable homicide, or section 4 or 5 MDC</td>
<td>Murder, treason, rape, culpable homicide, or section 4 or 5 MDC</td>
</tr>
<tr>
<td>Can try which persons</td>
<td>Private NCOs</td>
<td>Private NCOs</td>
<td>(e) All ranks</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Warrant Officers</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Officers – Lt-Capt</td>
<td></td>
</tr>
<tr>
<td>Maximum punishment</td>
<td>R600 fine</td>
<td>(f)</td>
<td>Any section 12 MDSMA sentence</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Any section 12 MDSMA sentence</td>
</tr>
</tbody>
</table>

| [6 × 2 = 12]

QUESTION 3

Outline the circumstances under which it is acceptable to warn an offender instead of arresting him or her. [6 × 2 = 12]
QUESTION 4

Rule 2 deals with arrest. Any person effecting an arrest shall immediately or as soon as possible thereafter inform the arrested person of five rights as required by Rule 2 (3).

List these five rights. [5 × 2 = 10]

QUESTION 5

Proof of drunkenness can be provided by means of affidavits describing observations indicating that the accused was under the influence of intoxicating liquor or narcotic drugs, for example, 'accused was unsteady on his or her feet'.

Mention any eight other such observations that can be described in affidavits. [8]

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

ANSWER ONE OF THE QUESTIONS

QUESTION 1
Rule 2(3) makes provision that an accused be informed of their rights as contained in the 1996 Constitution Bill of Rights.

Section 35(1) and 35(2) of the Constitution deals with the rights of arrested and detained persons.

Discuss the rights of arrested and detained persons. [20]

OR

QUESTION 2
Discuss ‘wilful defiance’ 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