SECTION A    (SEPARATE ANSWER BOOK)

ANSWER ANY TWO QUESTIONS

QUESTION 1

Explain the concept of theft of trust money, with reference to the case of
S v Boesak 2000 (1) SACR 633 (SCA).  

Explain the significance of the decision of the Supreme Court of Appeal in
S v Rheeder 2000 (2) SACR 558 (SCA) for the law of theft.

(12) 
(8)  
[20]
QUESTION 2

(a) Daisy, driving her motor car, is involved in a collision with a motor car driven by Minnie. Daisy’s motor car is damaged in the collision. She claims that the collision was entirely due to Minnie’s fault, and tells Daisy that she is holding her liable for the damage to her car, which she estimates at R2000. Minnie denies that she was at fault and refuses to pay. Daisy then tells Minnie that, unless she pays her R2000, she (Daisy) and her friends will ‘get’ her later. Minnie then hands over R2000 to Daisy. Consider whether Daisy is guilty of

(i) robbery; and/or
(ii) extortion. (8)

(b) How has the Constitutional Court case of S v Manamela 2000 (1) SACR 414 (CC) changed the law relating to statutory receiving? (4)

(c) Casper unties the flap of a tent at a holiday camp. He then inserts a stick through the opening and with it unhooks a jacket which is hanging inside the tent and which belongs to one of the sleeping occupants of the tent. He removes R100 from the jacket and then replaces the jacket by the same means as he has removed it. Consider Casper’s criminal liability. (8)

QUESTION 3

(a) A promises to pay B the money she owes her at the end of the month, but fails to do so. Can A be held criminally liable? (3)

(b) Discuss the protection of the right to freedom of expression in the context of the impact of the institution of the Bill of Rights on specific offences. (10)

(c) The crime of trespass can be committed in three ways in relation to occupied land or buildings. Explain. (4)

(d) How does the criminalization of corruption in the Prevention and Combating of Corrupt Activities Act 12 of 2004 differ from the previous formulation of the crime? (3)

Total (Section A): [40]
SECTION B (SEPARATE ANSWER BOOK)

QUESTION 1

(a) When does making a threat amount to an assault? (3)

(b) Explain contempt of court in facie curiae, making reference to use of a cell phone in court. (5)

(c) Lucky, a grade 12 pupil in St Patrick’s High School, enters the boarding house where his ex-girlfriend Nelly lives. Upon entry he points a pistol at Nelly and orders her to sit down. He locks the door and blocks the door with a cabinet. He further orders her to make phone calls to the police and report that she is being held against her will in the boarding house. He explains to Nelly that all he really wants is to talk, settle their differences and reconcile. He also proposes marriage to her. After approximately 2 hours, and after Nelly being insistent that she is no longer in love with him and can’t marry him, Lucky leaves with a broken heart, and also lets Nelly go free. Nelly wants to lay a charge against Lucky but is not sure whether or not she was kidnapped or abducted. Advise her. (10)

(d) Distinguish between arson and malicious property. (2)
QUESTION 2

(a) Briefly discuss consent as an element of the crime of rape, making reference to any relevant case law. (10)

(b) Nelly, a mentally ill woman, lives alone in the township of Umlazi. Each night as a routine she prays and sings and thereafter takes a bath. On a particular night Lucky decides to go and stare at Nelly through the window whilst she is taking a bath. Surprisingly she does not notice her audience; however a passing nurse notices and reports Lucky to the police.

Discuss the nature and assessment of the liability of Lucky for the crime of crimen injuria. Would the situation have been different, assuming Nelly was mentally stable, had Lucky stared at Nelly, and Nelly, realising what Lucky was doing, chased him away, and in response to which Lucky had sworn at her? (5)

Total (Section B): [35]

END OF PAPER