INSTRUCTIONS

1. Students are requested, in their own interests, to write legibly.

2. This paper consists of FIVE (5) pages. Please ensure that you have all of the pages.

3. Please note that you must answer both Section A and B. All the questions in Section A are compulsory. In Section B you have a choice and you must answer any two of the three questions.

4. Please note that Sections A and B must be answered in separate booklets.
SECTION A

Please note that all questions in this section are compulsory

QUESTION 1

Eddie Van Schalkwyk is a passionate Springbok rugby supporter. Eddie has high hopes that the Springboks are going to win the Tri Nations and he buys tickets to watch the Springboks playing against the All Blacks (New Zealand). Eddie also takes a bet with one of his work colleagues that the Springboks are going to win. Eddie is over the moon when the Springboks are leading 21-19 with only 2 minutes left on the clock. However, his mood quickly changes when New Zealand flyhalf, Dan Carter, kicks a drop goal thereby ensuring victory for the All Blacks and denying the Springboks the Tri Nations crown. After the match, Eddie decides to drown his sorrows at a nearby pub. Eddie consumes a large quantity of alcohol and becomes so intoxicated that he can no longer stand. Eddie overhears another rugby supporter (X) talking about how useless the Springboks are, and he takes an empty beer bottle and hits X hard over the head with the bottle two times thereby causing the bottle to break. He then takes the broken bottle and stabs X two times. Eddie is charged with the murder of X. In his defence, Eddie claims that he was so drunk at the relevant time that he did not know what he was doing. Assess Eddie’s criminal liability on the murder charge and also consider whether he could incur any liability in terms of the Criminal Law Amendment Act.1 of 1988.

[20 Marks]

AND

QUESTION 2

Luthuli decides to rob a shop called ‘Bargain Galore’ in Church Street. Luthuli arms himself with a gun, which he hides inside his jacket, and he enters the shop. Luthuli sees that there are three people inside, namely the shopkeeper (Henry); an assistant (Derrick) and another customer (Paul). Henry notices that Luthuli is behaving suspiciously and he sternly asks him to leave his shop immediately. Luthuli takes out his gun and fires one shot at Henry. The shot, however, misses Henry, ricochets off a steel counter and hits and kills Derrick, who was standing a few feet from the counter. After witnessing this, Paul grabs a knife from the store and hides behind a particular shelf. Luthuli then fires another shot at Henry who manages to dodge the bullet. However, in doing so he loses his balance and hits his head hard on the concrete floor. Henry subsequently sustains a severe head wound and dies from this injury. Luthuli flees the store immediately after this.

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After hearing the shots, Shezi who owns a store in the same vicinity, enters Bargain Galore. Shezi sees the bodies of Henry and Derrick lying on the flood and notices a man (who is Paul) hiding behind the shelf. Shezi moves slowly towards the shelf and asks the man to come out and identify himself. Paul, however, is still hysterical after witnessing the two murders and warns Shezi not to come closer to him. Shezi then reaches for his pocket to get his cell phone while continuing to advance towards Paul. Paul, thinking that Shezi is reaching to grab a gun, takes the knife out and stabs him three times thereby killing him.

2.1 Luthuli is charged with the murders of Henry and Derrick. Advise him only on whether he can escape liability on the basis that he did not have intention to commit the murders.

[15 Marks]

2.2 Paul is charged with murdering Shezi. Assess his criminal liability in this instance.

[15 Marks]

[30 Marks]

[TOTAL SECTION A: 50 MARKS]
SECTION B

Please answer any TWO of the following three questions:

QUESTION 3

Discuss the impact of medical treatment on causation, taking into account the cases of Tembani and Mokgethi.

[25 marks]

OR

QUESTION 4

A, B, C and D decide to hold up a cash-in-transit van to make their fortunes. Although D is inexperienced, and expressly says that he does not want bloodshed, A and B decide to involve him anyway, as they need someone to drive a vehicle across the road at the appropriate time to block the road. D knows that the others will be armed, and he is aware of A and B’s reputation as robbers, but he hopes that they have told him the truth when they assure him that the guards will hand over the money without any need to shoot.

C is A’s girlfriend. She was involved in a previous robbery, and is haunted by the memory of the death of a guard who was pleading for his life when B shot him dead. She nevertheless agrees to accompany them. On the way to the place where the hold-up will take place, C starts to doubt whether she can go through with it. When she expresses her doubts to A, he tells her that it is too late to pull out at this stage.

At the scene, D parks the vehicle he is driving across the road, blocking the road as planned. Unknown to him, E, A’s 16-year-old brother, is hiding in the vehicle. As the security van is forced to stop, C pleads once more with A not to go through with robbery, but he ignores her. C puts her weapon down, and runs away from the scene just as A and B begins to fire armour-piercing bullets at the security van. The guards Y and Z are fatally wounded, although it is unclear whether as a result of the bullets fired by A or B. E emerges from his hiding place in D’s vehicle and, being eager to participate, runs to the van, where he proceeds to hit the dying men with an iron bar. E’s acts do not hasten the death of the guards however. A, B, D and E drive off with the boxes of money found in the van.

Assess the criminal liability of A, B, C, D and E.

[25 Marks]
OR

QUESTION 5

Discuss when a failed attempt results in criminal liability, and when it does not.

[25 Marks]

[TOTAL SECTION B: 50 MARKS]

TOTAL FOR PAPER: 100 MARKS