

General Certificate of Education
June 2007
Advanced Level Examination



LAW

**Unit 5 Criminal Law (Offences against Property)
or Tort or Protection of Human Rights
or Consumer Protection**

LAW5

Monday 18 June 2007 1.30 pm to 2.45 pm

For this paper you must have:

- a 12-page answer book.

Time allowed: 1 hour 15 minutes

Instructions

- Use blue or black ink or ball-point pen.
- Write the information required on the front of your answer book. The *Examining Body* for this paper is AQA. The *Paper Reference* is LAW5.
- Answer **one** question from two on the theme you have studied for this unit.
- Do all rough work in the answer book. Cross through any work you do not want to be marked.
- Give reasoned answers. Where appropriate, make reference to authority.

Information

- The maximum mark for this paper is 85.
Ten of these marks will be awarded for using good English, organising information clearly and using specialist vocabulary where appropriate.
- The marks for questions are shown in brackets.

Answer **one** question from two on the theme you have studied for this unit.

Give reasoned answers. Where appropriate, make reference to authority.

Read the scenario and answer **all** parts of the question which follows.

Criminal Law (Offences against Property)

Total for this question: 75 marks

- 1** Andy, who was 17 years old, lived next door to Barry, who had just had the outside brickwork on his house painted. Andy frequently kicked a muddy football against Barry's house, leaving dirty marks which Barry had to clean off. This annoyed Barry very much, though he had never said anything to Andy about it. Eventually, Andy accidentally kicked the ball over Barry's garden fence, breaking glass in Barry's greenhouse. Barry slit the ball with a knife but told Andy that he had not seen it. Andy did not believe him and climbed over Barry's garden fence at night to try to find it. He took a ball from Barry's garden shed, though he knew that it was not his own ball.

The next day, Andy went into a park and drank a half bottle of whisky. By now, he was reeling around and finding it difficult to stand up. He tried to thumb a lift home from passing cars and was relieved when Charles stopped and picked him up. In reality, Charles was a taxi driver who expected to be paid. When the taxi stopped at traffic lights, Andy got out and began to walk away, unable to understand what Charles was shouting at him. He stumbled into Dora, an elderly lady, and knocked her bag out of her hand. He picked it up and walked off with it. When he woke up next day, he discovered the bag, but did nothing with it.

- (a) Discuss the possible liability of Andy and of Barry for property offences arising out of the incidents involving the ball, and Andy's attempts to recover it. *(25 marks)*
- (b) Discuss Andy's possible criminal liability for property offences arising out of the incidents involving Charles and Dora. *(25 marks)*
- (c) Choosing any **one** property offence, consider how satisfactory are the elements of that offence. *(25 marks)*

Total for this question: 75 marks

- 2 Earl, a businessman well known for illegal and violent activities, was in a dispute with Frank, a car dealer. Earl told Graham, who owed him £5000, that if he did not firebomb one of Frank's car showrooms, Earl would ensure that Graham and his family 'would suffer'. Graham drove his car through the window of Frank's showroom in the early hours of the morning, reversed back out, and then threw two small firebombs into the showroom, aiming for a relatively empty area. Unfortunately, one struck some highly flammable material and the fire spread rapidly through the showroom, burning out many of the cars on display. Unknown to Graham, a security officer was checking the rear of the showroom at the time and was badly burned in the fire.

Graham, who desperately wished to repay the money to Earl, was himself owed £1000 by his (Graham's) brother, Harry. Harry had persistently avoided repaying Graham by telling him that he had no money. Whilst Harry was away, Graham found a bank statement showing that Harry had £1500 in his account. Graham also found Harry's debit card and made a successful guess at his PIN (security number). This enabled him to withdraw £500 from cash machines over two days. Afterwards, Graham put the card back where he had found it. Graham also gave £200 to Earl. This money had been given to Graham by his own father as a present for Graham's young son.

- (a) Discuss Graham's possible criminal liability for property offences arising out of the incidents involving the firebombing of Frank's showroom. *(25 marks)*
- (b) Discuss the possible criminal liability of Graham for offences arising out of the taking and use of Harry's card and the use of the £200. Discuss also the criminal liability of Harry for any offence arising out of the failure to pay back the £1000 to Graham. *(25 marks)*
- (c) Choosing any **one** property offence, consider how satisfactory are the elements of that offence. *(25 marks)*

Turn over for the next question

Turn over ►

Tort**Total for this question: 75 marks**

- 3 John lived in a terraced house with a long garden. John caused difficulties for his neighbour, Ken, a 75-year-old man in poor health, by keeping dogs in his garden, which often howled for prolonged periods when he was not there, and sometimes barked loudly during the night. Additionally, there were various very strong smells from the dogs and their food, and from rubbish which John had allowed to accumulate. When Ken complained, John bought yet another dog and the disturbances seemed to get worse. On a number of occasions, rotting and foul-smelling waste had been blown over onto Ken's lawn and patio.

Whilst playing in his garden on the other side of John's house, Nick, who was 9 years old, often accidentally knocked balls over the wall into John's garden. Nick usually climbed over the wall and retrieved the ball, if John was not there and the dogs were chained up. If John found out, sometimes he seemed not to mind, at other times he told Nick not to do it again. John was about to go away on holiday and held a party in his garden. A very drunken guest pushed some broken bottles into the ground near to the wall, with the broken ends uppermost. The next day, when John had left, Nick fell onto the bottles when he slipped whilst jumping down from the wall into John's garden. Nick suffered severe injuries to his face and arms. Mary, his elder sister, who had heard his screams and had gone to help him, found the experience difficult to forget and subsequently had frequent panic attacks.

- (a) Consider Ken's rights and remedies against John in connection with the disturbances from noise and smells, and the waste blowing onto his land. *(25 marks)*
- (b) Consider the rights of Nick and of Mary to recover compensation from John for the injuries arising out of the incident with the broken bottles. *(25 marks)*
- (c) Choose **one** of the following.

How satisfactory is the law concerning the rights of claimants to recover compensation for economic loss? *(25 marks)*

OR

How satisfactory is the law concerning the rights of claimants to recover compensation for psychiatric injury? *(25 marks)*

OR

Comment critically on the rules on vicarious liability, and discuss the reasons for their application. *(25 marks)*

Total for this question: 75 marks

- 4 Paul is a wealthy collector of paintings, who is considered an expert in the work of Williams. Paintings by Williams could sell for up to £50 000. Louise, with whom Paul had become very friendly, showed him a painting she had recently inherited. Paul wrote her a letter expressing his view that the painting was by Williams and should be worth about £10 000. When Louise showed the letter to Victor, who knew of Paul's reputation, Victor agreed to buy the painting for £10 000. A year later, after Louise had died, Victor discovered that the painting was not by Williams, but merely in his style, and was worth only £1000. Victor was furious, not only because he seemed to have lost £9000, but also because his original intention had been to invest the £10 000 in shares which would have made £2000 profit during that year.

Paul's driver, Ravi, was on his way to collect Paul from a business meeting, but had made a three-mile detour to go to a superstore to buy some goods for himself. On his way back, he failed to notice a road sign warning of a dangerous bend in the road ahead, because the sign was partly hidden by an obstruction. Consequently, he took the bend too fast. At the same time, Sally had begun to cross the road without having first properly checked for traffic, because she was talking on her mobile telephone to her mother, Tessa. Sally was seriously injured in the collision. The mobile telephone was undamaged and Tessa was able to hear sounds involved in the incident, including Sally screaming and the sound of the impact. The experience left Tessa with serious psychological problems.

- (a) Consider whether Victor has any rights and remedies against Paul in connection with the loss of money on the painting, and his possible loss of profits on the shares which he did not purchase. *(25 marks)*
- (b) Consider what rights and remedies may be available to Sally and to Tessa against Ravi and against Paul in connection with the collision. *(25 marks)*
- (c) Choose **one** of the following.

How satisfactory is the law concerning the rights of claimants to recover compensation for economic loss? *(25 marks)*

OR

How satisfactory is the law concerning the rights of claimants to recover compensation for psychiatric injury? *(25 marks)*

OR

Comment critically on the rules on vicarious liability, and discuss the reasons for their application. *(25 marks)*

Turn over ►

Protection of Human Rights

Total for this question: 75 marks

- 5 Anne was a popular celebrity, apparently strongly committed to family values. She wrote a newspaper column and hosted a television programme in which she gave advice on bringing up children and improving family relationships. However, when she was younger and had not yet achieved celebrity status, she had proved to be incapable of looking after her daughter. Her daughter had been taken into local authority care and subsequently adopted. Some years later, her daughter died, and Anne was so depressed by the news that she told the story to Beth, a friend she had recently made.

After Anne became a celebrity, Beth decided to contact a national newspaper, *The Digger*, and to reveal the story for a sum of £5000. *The Digger* included a brief paragraph promising to publish a series of articles about Anne's earlier life and contacted Anne to try to get her comments. *The Digger* indicated that the articles would "reveal the real truth about Anne", and would heavily criticise her as unfit to give advice about family relationships. When Anne did not respond, *The Digger* sent reporters and photographers to follow Anne around, including into the grounds of her house, and to persist in trying to obtain her comments.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss the rights and remedies, if any, available to Anne against Beth, *The Digger*, and its reporters and photographers. (25 marks)
- (b) Discuss the effect of the Human Rights Act 1998 and of the European Convention on Human Rights on your answer to part (a) above. (25 marks)
- (c) **EITHER**

Consider how far English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has succeeded in establishing an acceptable balance between the protection of freedom of expression and the protection of interests in privacy. (25 marks)

OR

Consider how far English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has succeeded in establishing an acceptable balance between the protection of freedom of expression and the preservation of public order. (25 marks)

Total for this question: 75 marks

- 6 Rovers FC was a moderately successful football club owned by Colin. In a move which received a great deal of publicity, Derek offered to pay a substantial sum of money to buy control of the club from Colin. Both Colin and Derek were agreed that this would be very beneficial to the club and its supporters. Additionally, the community was to benefit substantially because Derek proposed to develop leisure facilities for the use of everyone. In consequence, some supporters, and most of the general community, strongly favoured the deal. However, many supporters, including Gordon, were suspicious of Derek's motives and opposed the deal. Derek's briefcase was stolen and papers from it were subsequently passed to Gordon. These papers suggested that Derek intended to sell the Rovers FC ground for commercial development, and that Colin expected also to profit from such a sale. Gordon proposed to reveal the alleged plans and to condemn both Derek and Colin.

The supporters opposed to the sale of the club to Derek staged a number of protest marches and demonstrations and expressed their intention to continue to do so every week. This led to some violent clashes with those in agreement with the deal. There were instances of knives and other weapons being used, and the police became concerned that disorder was becoming more widespread and increasingly serious in nature. They were especially concerned about the route being taken by marches and the attempts of the supporters opposed to the deal to confront both Derek and Colin at work and at home.

- (a) Including in your answer a consideration of the Human Rights Act 1998 and the European Convention on Human Rights, discuss what rights and remedies may be available to Derek in connection with the information in the stolen papers, **and** to Colin if he denies the allegation that he knew of Derek's plans. *(25 marks)*
- (b) Including in your answer a consideration of the Human Rights Act 1998 and the European Convention on Human Rights, discuss the powers available to the police in view of their concerns about the marches and demonstrations and the increasing conflict between those against the deal and those favouring it. *(25 marks)*
- (c) **EITHER**

Consider how far English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has succeeded in establishing an acceptable balance between the protection of freedom of expression and the protection of interests in privacy. *(25 marks)*

OR

Consider how far English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has succeeded in establishing an acceptable balance between the protection of freedom of expression and the preservation of public order. *(25 marks)*

Turn over ►

Consumer Protection

Total for this question: 75 marks

- 7 Irene placed an advertisement in a newspaper, stating, “Pedigree dogs for sale. Excellent breeds. Buy with confidence.” Jamila bought two dogs, costing £500 each. When she took them to Kate, a vet (veterinary surgeon), to be checked, she was told that the first dog was definitely not a pure breed and that the second dog had problems with its jaw which would require expensive corrective surgery. Irene rejected the claim that the first dog was not a pure breed, though she knew the claim to be true, and refused to take it back. However, she persuaded Jamila to accept another dog as a replacement for the second dog. When, in turn, that dog was examined by Kate, Kate failed to recognise a relatively obvious health defect. Three months later, Jamila discovered that she would have to spend £400 on an operation for the replacement dog.

Jamila’s friend, Lewis, bought her a protective grid from Kaynines to put in her car to stop her dogs from jumping from the back seats into the front of the car. The grid was of an entirely new design, made of rigid, very strong plastic, and developed and manufactured by Dogsafe Ltd. After two weeks’ use, the grid suddenly shattered when the dogs jumped against it. When the dogs burst through to the front seats, Jamila lost control of her car in heavy traffic, collided with another car and injured the driver. Subsequently, tests demonstrated that there was a previously unknown weakness in the structure of the plastic.

- (a) In connection with the sale of the dogs, discuss Irene’s duties in **civil** and **criminal** law, and consider Jamila’s rights and remedies against Irene. Consider also Jamila’s rights and remedies against Kate in connection with the replacement dog. *(25 marks)*
- (b) Consider the rights and remedies, if any, of Jamila and of Lewis against Kaynines and against Dogsafe Ltd. *(25 marks)*
- (c) Having regard to the **civil** and **criminal** law duties of suppliers of goods and services, and to the rights and remedies of consumers, in your view, how satisfactory is the protection available to consumers of goods and services? *(25 marks)*

Total for this question: 75 marks

- 8 Luke telephoned Matt, a plumber, and asked him to do some work in Luke's house, including replacing the gas boiler. Matt said that the work would take "about 4 days" and would cost "about £3000". After Matt had removed the old boiler and had stripped out various pipes, he discovered that he had misjudged the requirements of the job and that he needed materials which he had to order, and could not get for 5 days. Eventually, the work took 14 days to complete. For 10 days of this period, no water was available, and Luke spent £350 staying in a small hotel. When Luke began to live in the house again, he found that the water flow was restricted because Matt had used the wrong size of pipe in an awkward area of the system. Matt gave Luke a bill for £4000.

Luke employed Peter to supply and fit a new digital TV aerial on his roof. The first aerial fitted failed to function properly but Peter came back and fitted a different one. This, too, appeared to be giving very poor reception of TV pictures. However, during a strong wind, the aerial was blown down, causing £200 worth of damage to the roof. Peter admitted that he had failed to secure the aerial properly, but he pointed to the document that Luke had signed when the work was first done. This document included a provision that, if the aerial proved to be faulty, Peter would be liable only to supply a replacement. Further, Peter would not be liable for any loss resulting from the fitting of the aerial.

- (a) Discuss Luke's rights and remedies against Matt arising out of the work done by Matt. *(25 marks)*
- (b) Discuss Luke's rights and remedies arising out of the supply and fitting of the TV aerial. *(25 marks)*
- (c) Having regard to the **civil** and **criminal** law duties of suppliers of goods and services, and to the rights and remedies of consumers, in your view, how satisfactory is the protection available to consumers of goods and services? *(25 marks)*

END OF QUESTIONS

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