

General Certificate of Education
January 2008
Advanced Level Examination



LAW

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

LAW5

Friday 18 January 2008 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 Adrian sold computers from a shop in the high street. Bill paid £500 for a computer which Adrian promised would be available in four weeks' time. After taking the order and putting the money into his business account, but before it had been spent, Adrian learned that his supplier was threatening not to deliver any more computers because of unpaid bills. Subsequently, Craig also paid Adrian £500 for a computer which Adrian promised would be available shortly. Bill complained that, after five weeks, he had still not got his computer. Adrian said that he would refund the £500 as soon as he had sorted out his bank accounts. He made the same promise to Craig on a number of occasions. In fact, Adrian's business had gone bankrupt, and he was unable to supply the computers or to refund the money paid, because it had been used to pay other debts.

Bill brooded on the loss of his £500 and on how he could get it back. Having drunk a great deal of wine one night, he went round to Adrian's house. Though the house was in darkness, Bill began to bang on a window. To his surprise, the glass broke and Bill climbed in through the window. Once inside, he wandered aimlessly through the house, pushing over a small table which was in his way and breaking an ornament which had rested on it. Eventually, he looked through some bookshelves and put a book in his pocket, which he then completely forgot about. When he woke up in his own house next morning, he discovered that he had the book, but did nothing with it.

- (a) Discuss Adrian's possible liability for property offences arising out of his dealings with Bill and Craig. *(25 marks)*
- (b) Discuss Bill's possible criminal liability for property offences arising out of his visit to Adrian's house. *(25 marks)*
- (c) Write a critical evaluation of the elements of any **one** property offence of your choice. *(25 marks)*

Total for this question: 75 marks

2 Des, who had a violent and unpredictable personality, saw Eddie in the street and called him over. Eddie, who was 16 years old and who knew Des, was very frightened when Des showed him a knife and told him to “get some money for me from a few old ladies”. Des also said that he would be watching Eddie all the time. Eddie managed to get money from a number of old people in the street, either by telling them that he was homeless and needed money for food, or, if they refused his request, by persistently asking in an increasingly aggressive manner. Des took the money with him to a bar where he drank a large amount of beer. He managed to get his last pint of beer without paying by allowing the barman to believe that he was part of a larger crowd who had ordered a lot of drinks.

Des left the bar to visit a female friend. However, he had only been to her house once before and he became confused between a number of houses. Finally, though he was wrong, he was certain that he had found his friend’s house. No one seemed to be in, but he managed to go through an unlocked door from the garage into the house. Inside, he began to play about lighting paper with his cigarette lighter. Eventually, the carpet was set alight, and he hastily smothered it with a cushion. The cushion was badly damaged. When Des woke up in the house next morning, he was confronted by the owner, Fred, who was returning from work. Des ran out, barging into Fred on the way. Fred was knocked down and suffered a broken arm.

- (a) Discuss the possible criminal liability of Eddie for property offences arising out of his collection of money from the old people, and of Des arising out of the way in which he got his last pint of beer without paying. *(25 marks)*
- (b) Discuss the possible criminal liability of Des arising out of the incidents at the house. *(25 marks)*
- (c) Write a critical evaluation of the elements of any **one** property offence of your choice. *(25 marks)*

Turn over for the next question

Turn over ►

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

- 3 About a year ago, John moved into a house built close to land which had traditionally been used as a showground and was owned by Keith. For many years, the showground staged only a small number of events but, recently, it had become much more popular and there were now events almost every weekend. In consequence, John was experiencing a great deal of noise and disturbance. His complaints to the organisers only seemed to have provoked more loud music and an increase in other noisy activities. During one event, an old traction engine which was kept at the showground experienced serious mechanical problems whilst being exhibited. It threw out oily smuts which were blown onto John's property, damaging new paintwork on his house.

John had decided to replace all the window frames in the house and had seen a discount offer which would enable him to buy the frames for £5000. However, during a family party at his house, John was told by Les, a friend of his son, that local conservation rules required the use of a different style for the window frames. Since Les had recently set up a business as a local builder, John took his advice and spent £6000 on the different style of window frames. However, after he had installed the frames, he discovered that Les was wrong and he had to remove them and sell them for £4500. By now, the discount offer for the original frames was no longer available and he had to pay £6500 to get the frames he needed.

- (a) Consider John's rights and remedies against Keith in connection with the noise and other disturbances, and in connection with the oily smuts which damaged the paintwork on his house. *(25 marks)*
- (b) Consider the rights and remedies, if any, of John against Les in connection with any financial losses arising out of the installation of the window frames. *(25 marks)*
- (c) **EITHER**

With regard to compensation for psychiatric injury, to what extent would you agree that the law is unsatisfactory? *(25 marks)*

OR

With regard to compensation for economic loss, to what extent would you agree that the law is unsatisfactory? *(25 marks)*

OR

Give a critical account of the law on vicarious liability. *(25 marks)*

Total for this question: 75 marks

- 4 Maxbuild owned a derelict warehouse and had boarded up obvious entrances and placed prominent danger notices outside the building to stop local youths using it as a play area. Even so, Nick and his very close friend, Phil, had found a way in and had been performing skateboard routines for three weeks on various slopes, ledges and balconies. Whilst performing one especially difficult routine, Nick fell from a balcony and landed on a metal spike which went through his shoulder, causing him to scream in great pain. Phil was unable to free him and was frozen with fear. Eventually, a passer-by heard the screams and called an ambulance. Nick's mother, Shirley, arrived at the hospital just in time to see him briefly before he underwent an operation. Both Phil and Shirley found great difficulty in recovering from their experiences of seeing Nick injured.

Subsequently, Maxbuild decided to demolish the building, using a mixture of their own employees and contractors. Tim was a Maxbuild employee, whilst Vic and Will were contractors. Tim was removing brick rubble from an upper floor. To save time, he did not set up a chute for the rubble, as he had been instructed to do. Thinking that workers below had gone for a break, he did not check before throwing bricks down. In fact, Vic was still below and his eyesight was severely damaged when a brick shattered and fragments entered his eyes. Will was dismantling a wooden staircase when it gave way and he fell and broke his leg.

- (a) Consider whether Nick, Phil and Shirley have any rights and remedies against Maxbuild. *(25 marks)*
- (b) Consider whether Vic has any rights and remedies against Tim and against Maxbuild, and whether Will has any rights and remedies against Maxbuild. *(25 marks)*
- (c) **EITHER**

With regard to compensation for psychiatric injury, to what extent would you agree that the law is unsatisfactory? *(25 marks)*

OR

With regard to compensation for economic loss, to what extent would you agree that the law is unsatisfactory? *(25 marks)*

OR

Give a critical account of the law on vicarious liability. *(25 marks)*

Turn over for the next question

Turn over ►

Protection of Human Rights

Total for this question: 75 marks

- 5 Over a period of a few months, a very large number of migrant workers from another European country joined the long-established community of immigrants in the town of Northside. Within a short time, shops and clubs began to open in a particular area of Northside to meet their specific needs. This created a certain degree of resentment amongst the rest of the population of the town, which increased when rumours spread that the migrant workers were receiving preferential treatment for housing and other benefits. Harriet, the Chair of the Housing Committee, was herself married to Viktor, who had entered the country as an immigrant a few years earlier. Gary, who had formed a group to campaign against the migrant workers, distributed a large number of posters accusing Harriet of influencing housing decisions in favour of new migrant workers and against the rest of the population.

There were many minor violent clashes between members of Gary's group and the migrant workers, and Gary announced that they would begin a series of marches and demonstrations which would target Harriet, the local authority offices and the immigrant area of Northside. The police became very alarmed when they received intelligence that other political groups known to use considerable violence intended to play a part in the marches and demonstrations.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss what rights Harriet may have against Gary, and consider what legal measures the police might adopt to minimise risks to public order arising out of the planned marches and demonstrations. *(25 marks)*
- (b) Discuss the effect of the Human Rights Act 1998 and of the European Convention on Human Rights on your answer to (a) above. *(25 marks)*
- (c) **EITHER**

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has not yet succeeded in establishing an acceptable balance between the protection of freedom of expression and the protection of interests in privacy. *(25 marks)*

OR

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has not yet 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 Some years ago, whilst participating in an activity for which Darius was one of the supervisors, some children at an outdoor centre got into difficulties, and two died. The major responsibility for the deaths was attributed to the team leader, but some parents also blamed Darius. Darius gave up his job, moved from the area and changed his name in an attempt to start afresh. Recently, he began to work as a school teacher and became very friendly with another teacher, Ellie. Eventually, he told Ellie a little about his past experiences.

Unknown to him, she took some photographs of him and sent them to a national newspaper, the *Daily Rant*. The newspaper's reporters besieged Darius's house, followed him about and researched the story sufficiently to establish his true identity. The *Daily Rant* then published a photograph of Darius and an accompanying caption, which read, "Will we never learn?! Your *Rant* asks, why is this man who allowed children to die now teaching in a school? Read the full story in tomorrow's copy of your riveting *Rant*." Darius was appalled to see his photograph in the newspaper and was determined to try to stop any further details being published. He also suspected that Ellie must have been the source of the information.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss the rights and remedies, if any, available to Darius against Ellie, the *Daily Rant*, and its reporters. (25 marks)
- (b) Discuss the effect of the Human Rights Act 1998 and of the European Convention on Human Rights on your answer to (a) above. (25 marks)
- (c) **EITHER**

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has not yet succeeded in establishing an acceptable balance between the protection of freedom of expression and the protection of interests in privacy. (25 marks)

OR

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has not yet succeeded in establishing an acceptable balance between the protection of freedom of expression and the preservation of public order. (25 marks)

Turn over for the next question

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Consumer Protection

Total for this question: 75 marks

- 7 Jez often tried to make extra money by buying and selling bankrupt stock. He bought a consignment of model train sets, and then advertised them for sale at £75 each. The same sets were available in local stores at £60, so Jez stated that they were 'special edition' sets with unusual features. Kim contacted him to buy one, but said that she had not yet got the money to pay for it. Jez said that he would save one for her, but Kim was furious when Jez later told her that he had sold all of the sets. Leah bought one and had used it a few times when she discovered that it was no different from those generally available at a lower price.

Melvin had a large model railway layout with a number of expensive locomotives, which required a special electronic controller. Niccy, his girlfriend, bought him a new controller for it from Railmods. The controller was manufactured by Electrol. The information supplied with the controller led Melvin to believe that it was suitable for his layout. However, it was in fact unsuitable and when he used it, the engine on one of his locomotives burned out, costing him £400 in repairs.

- (a) Referring both to criminal **and** to civil law in relation to the dealings between Jez and Kim and between Jez and Leah, discuss the rights, duties and remedies of the parties. *(25 marks)*
- (b) Consider the rights and remedies of Melvin and of Niccy against Railmods and against Electrol, arising out of the purchase of the controller and the damage to the model locomotive. *(25 marks)*
- (c) **EITHER**

Discuss the suggestion that the law has succeeded in striking an appropriate balance between the interests of consumers of goods and services and the interests of those who supply them. *(25 marks)*

OR

Discuss the suggestion that, in its approach to the control of exclusion clauses, the law has succeeded in striking an appropriate balance between the interests of consumers of goods and services and the interests of those who supply them. *(25 marks)*

Total for this question: 75 marks

- 8 Peter's daughter, Stella, had just got married and was away on holiday. Peter arranged for Roy to re-plaster the walls in one of the bedrooms of her house, for which he paid Roy £700. Subsequently, Stella had the bedroom redecorated at a cost of £500. A few months later, Stella discovered that the plaster on the two walls was unsound and would have to be replaced, requiring also £300 of further redecoration. When Stella contacted Roy, he said that he had no agreement with Stella and that his agreement with Peter contained a clause restricting his liability to the cost of materials.

Stella saw an advertisement by Trisales offering a self-assembly 'home entertainment' cabinet for £150 and promising an additional 'free gift'. She ordered the cabinet but, when it arrived, two parts were missing. However, she was delighted with the free gift, which was a holder for remote control devices. She sent the cabinet back and requested another. When it arrived, she successfully assembled it, though she felt that the joints were rather weak, and wondered about its stability. About two weeks later, the cabinet collapsed and the heavy television slid off and caused £80 worth of damage to a games console. When Stella complained, Trisales pointed out both that she had kept the cabinet for two weeks and that the documents supplied with the cabinet limited any liability on the part of Trisales to the cost of repair or replacement of the cabinet.

- (a) Discuss the rights, duties and remedies of Peter, Stella and Roy in connection with the re-plastering of the walls in Stella's bedroom. *(25 marks)*
- (b) Discuss the rights, duties and remedies of Stella and Trisales arising out of the purchase of the 'home entertainment' cabinet and the provision of the 'free gift'. *(25 marks)*
- (c) **EITHER**

Discuss the suggestion that the law has succeeded in striking an appropriate balance between the interests of consumers of goods and services and the interests of those who supply them. *(25 marks)*

OR

Discuss the suggestion that, in its approach to the control of exclusion clauses, the law has succeeded in striking an appropriate balance between the interests of consumers of goods and services and the interests of those who supply them. *(25 marks)*

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