



General Certificate of Education
Advanced Subsidiary Examination
January 2010

Law

LAW02

Unit 2 The Concept of Liability

Wednesday 20 January 2010 1.30 pm to 3.00 pm

For this paper you must have:

- a 12-page answer book.

Time allowed

- 1 hour 30 minutes

Instructions

- Use black ink or black 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 LAW02.
- Answer **two** questions.
- Answer Question 1 (Section A) and **either** Question 2 (Section B) **or** Question 3 (Section C).
- Do all rough work in your answer book. Cross through any work you do not want to be marked.
- Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Information

- The marks for questions are shown in brackets.
- The maximum mark for this paper is 95.
Five of these marks will be awarded for your ability to:
 - use good English
 - organise information clearly
 - use specialist vocabulary where appropriate.

SECTION A: INTRODUCTION TO CRIMINAL LIABILITY

Answer **all** parts of this question.

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this question: 45 marks

- 1 Ashok was driving behind Ben. At some traffic lights, Ashok pulled alongside Ben and pointed his fingers at him in the shape of a gun, and mouthed towards him that he should be shot. Ben was very scared by this. Ashok then accelerated away from the lights to get ahead of Ben. Two hundred metres along the road, Ashok braked suddenly so that Ben was forced to stop.

Ashok then got out of the car carrying an iron bar. Ashok used the bar to smash the side window of Ben's car. As the bar broke through the window, it struck Ben on the shoulder, causing some bruising. Ashok then drove away.

- (a) Criminal liability depends on proof of *actus reus* and of *mens rea*, unless the crime is one of strict liability. *Actus reus* can be a positive act or an omission (failure to act). *Actus reus* and *mens rea* must usually occur at the same time (the coincidence/contemporaneity rule).
- (i) Explain how an omission can be the basis of the *actus reus* of a crime. (7 marks)
 - (ii) Explain the meaning of the term '*mens rea*'. (7 marks)
 - (iii) Explain the meaning of the coincidence (contemporaneity) rule. (7 marks)
- (b) (i) Discuss the criminal liability of Ashok for the incident at the traffic lights. (7 marks)
- (ii) Discuss the criminal liability of Ashok for the bruising caused to Ben by the iron bar. (7 marks)
- (c) (i) Outline the procedure up to the start of his trial that would be followed if Ashok was charged with a **summary** offence. (5 marks)
- (ii) Outline the range of sentences that could be imposed if Ashok was convicted. (5 marks)

Answer **either** Question 2 (Section B) **or** Question 3 (Section C).

SECTION B: INTRODUCTION TO TORT

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this question: 45 marks

- 2 Jamal wanted to do some work on the roof of his house. As he did not have a long ladder, he borrowed one from a friend who lived nearby. As he was carrying the ladder back to his house, Jamal turned to go up his drive. As he did so, the ladder swung into the road, knocking Kate off her motorbike and into the path of an oncoming car. As a result of the accident, Kate, a 30-year-old solicitor, is unlikely to work again, except at a much reduced salary.

Leona was in her house 20 metres away. On hearing the crash, she ran down the road, tripped over the ladder and broke her ankle.

- (a) Negligence requires proof of duty, breach and damage.
- (i) Explain the meaning of the term 'duty of care'. *(7 marks)*
 - (ii) Explain the meaning of the term 'breach of duty'. *(7 marks)*
- (b) Using the explanations given in your answer to Question 2(a)(i), discuss whether Jamal owed a duty of care to Kate **and** to Leona. *(7 marks)*
- (c) Assume Jamal owed a duty of care to Kate. Using the explanations given in your answer to Question 2(a)(ii), discuss whether Jamal was in breach of that duty. *(7 marks)*
- (d) Assume Kate decided to claim against Jamal in negligence.
- (i) Outline the procedure which would be followed **before** a trial takes place. Include in your answer any relevant alternative(s) to court action. *(7 marks)*
 - (ii) In relation to an award of damages, outline the difference between a lump sum payment and a structured settlement. *(3 marks)*
 - (iii) Outline how the court would calculate an award of damages to Kate, assuming her claim was successful. *(7 marks)*

Turn over for the next section

Turn over ►

Answer **either** Question 2 (Section B) **or** Question 3 (Section C).

SECTION C: INTRODUCTION TO CONTRACT

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this question: 45 marks

- 3 Richard wanted to buy a new mountain bike. He had seen a ‘Challenge 6’ bike advertised by ‘The Bike Shed’ for sale at £1199. He called at ‘The Bike Shed’, went for a test ride and ordered one immediately for £1199. It was agreed that delivery would take place within four weeks.

A few days later, Sam, the owner of ‘The Bike Shed’, telephoned Richard and left a message on his voicemail telling him that the price had now gone up to £1249 for the improved ‘Challenge 7’ model and that the ‘Challenge 6’ model was no longer available. Three weeks later, Sam telephoned to tell Richard that his bike was ready to collect. Richard refused to pay the new price and never went to collect the bike. Richard had to pay £1299 to get a ‘Challenge 6’ model from another supplier.

- (a) A valid contract requires offer and acceptance, intention to create legal relations and consideration. If one party to the contract does not do what has been agreed, there is likely to be a breach of contract.
- (i) Explain the distinction between an offer and an invitation to treat. *(7 marks)*
- (ii) Explain the meaning of the terms ‘consideration’ and ‘past consideration’. *(7 marks)*
- (iii) Explain the meaning of the terms ‘actual breach’ and ‘anticipatory breach’. *(7 marks)*
- (b) (i) Discuss whether there has been a valid contract formed between Richard and ‘The Bike Shed’ and, if so, when that contract was made. *(7 marks)*
- (ii) Assuming there was a contract between Richard and ‘The Bike Shed’, discuss **who** is in breach of that contract and **when** that breach occurred. *(7 marks)*
- (c) Assume that ‘The Bike Shed’ was in breach of contract.
- (i) Identify which court would hear the claim **and** outline the procedure that would be followed from issue of proceedings up to trial. *(5 marks)*
- (ii) Outline how the court calculates an award of damages in contract law **and** briefly explain how the damages might be calculated in this case. *(5 marks)*

END OF QUESTIONS