

Paper Reference(s)

**9345/02**

# **London Examinations GCE**

## **Law**

### **Advanced Level**

#### **Paper 2**

**Friday 22 June 2012 – Morning**

**Time: 3 hours**

**Materials required for examination**

Answer book (AB16)

**Items included with question papers**

Nil

#### **Instructions to Candidates**

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In the boxes on the answer book, write your centre number, candidate number, your surname and initials, the paper reference (9345/02) and your signature.

This paper is divided into FIVE sections (A–E). Choose TWO of these sections and answer any TWO questions from each – FOUR questions in total.

Your answers must be fully supported with appropriate legal authority and examples.

Answer your questions in the answer book.

Indicate which questions you are answering, in the boxes on the front page of the answer book AND in the left-hand margin of the answer space.

Do not use pencil. Use blue or black ink.

#### **Information for Candidates**

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All questions carry equal marks.

The total mark for this paper is 100.

This paper has 20 questions. Any blank pages are indicated.

#### **Advice to Candidates**

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Write your answers neatly and in good English.

Printer's Log. No.

**P40266A**



P 4 0 2 6 6 A

*Turn over*

**PEARSON**

**Answer any FOUR questions chosen from TWO sections. Candidates must answer TWO, and only TWO, questions from each section chosen.**

**SECTION A: The Market**

1. *A* placed an advertisement in her local newspaper as follows:

*“Beautiful Poodle puppies for sale. Wonderful pets. £400 each. Reserve yours today.”* *B* went to see the puppies and reserved the only black one, promising to return in two weeks to pay for and collect it. In fact, *B* changed his mind and never returned. *A* had kept the puppy for *B*, refusing three good offers for it. However, she was unable to sell it later, as it had become obvious that the puppy had a vicious streak and growled when approached by strangers.

*C* sent an email message to *A*, asking if she was willing to sell the smallest puppy in the litter for £300. *A* replied by email that she was not willing to sell the puppy for £300, but would accept £350. *C* immediately posted a letter to let *A* know that he was willing to pay £350, but, before she received the letter, *A* sold the puppy to *D* for £350.

*E* telephoned *A* to enquire whether the puppies had been given a health check. *A* told *E* that they had, but this was not true. However, *E* immediately ordered “the biggest puppy” without seeing it. He collected the puppy a few weeks later, and paid for it using his debit card. He soon discovered that it was suffering from a serious joint disorder.

Consider whether there is an enforceable contract between *A* and *B*.

Advise *C* and *E* as to whether they have any legal remedies against *A*.

**(Total 25 marks)**

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2. *F* decided to buy a new washing machine and iron for a total of £600 from *G* under a hire purchase agreement *G* arranged. *F* paid a deposit of £60 using a credit card, but did not bother to read the paperwork for the hire purchase agreement. *G* did not read aloud to *F* the essential clauses in the agreement.

Knowing that her cousin, *H*, was out of work, *F* sold *H* her old washing machine and iron for £50, so that *H* could start a small laundry business. One week after signing the agreement and taking delivery of her new washing machine and iron, *F* was made redundant, and realised that she would not be able to pay the instalments on her new electrical equipment. *F* therefore asked *G* if she could cancel the hire purchase agreement she had entered into in his shop. *G* refused to help her.

*F* wanted to return the £50 paid to her by *H*, and take back her old washing machine and iron, but *H* had built up a list of potential clients and refused to return the goods.

Advise *F* as to whether she has any legal means of cancelling her hire purchase agreement, and consider the legal position of *G*. Advise *H* as to whether she has the legal right to keep the washing machine and iron.

**(Total 25 marks)**

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3. *J* set up a rock band with *K*, *L* and *M*. After some successful concerts, they decided to play at a new Winter music festival, and, for an advance fee of £500, *J* booked a stage and a time slot when his band would play, in return for a small percentage of the money obtained from ticket sales at the festival. The festival was advertised as:

*“A great opportunity for families with children to enjoy music in a wonderful setting. Excellent restaurant. Free tents and sleeping bags. Fairyland with cute woodland creatures. Alice in Wonderland.”*

Three days before the start of the festival *J* was killed in a car accident, so the band was unable to play at the festival. *K*, *L* and *M* wanted the £500 returned to them, but the festival organisers refused.

*N* had bought 10 tickets on behalf of a group of friends who were fans of *J*'s band. On hearing of *J*'s death, *N* and his friends wanted to return their tickets to the organisers. They asked for their money back, saying that their only reason for attending the festival was to support *J*'s band. The organisers argued that there was still plenty to see and do at the festival so there was no need to cancel the tickets.

*P* took his family to the festival but, after paying the £200 family entrance fee, he discovered that all the tents had been pre-booked, and there were no spare sleeping bags. The ground was muddy and there was only one small van serving tea and coffee. The woodland creatures turned out to be poor quality models, and Alice in Wonderland was a rather elderly actress who looked unrealistic and had no patience with children.

Advise *K*, *L* and *M* if they are likely to be successful in claiming the return of the £500. Consider whether *N* and his friends are likely to be successful in reclaiming their ticket money. Advise *P* as to whether he and his family have any legal remedies against the festival organisers.

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**(Total 25 marks)**

4. In an end of season sale at a garden centre owned by *Q*, *R* saw the following sign attached to an electric lawn mower:

*“Bargain – reduced from £300 to £100. Sold as seen.”*

*R* immediately bought the mower and paid cash without even checking it for possible faults, although she had the opportunity to do so. When she arrived home *R* plugged the mower into the mains electricity in her garden shed to charge the battery. During the night, the mower caught fire and damaged *R*'s garden shed to the value of £1,000. Her pedigree cat, which was sleeping in the shed overnight, was killed in the fire. The cat was due to give birth to kittens in two days time, and *R* considered that the cat and kittens, once born, were worth £2,000 altogether.

*R* telephoned *Q* to tell him what had happened, but *Q* was unwilling to acknowledge any responsibility, blaming *S*, who had supplied the mower to him, and telling *R* that it was her own fault that she had not checked the mower before buying it.

Advise *R* as to whether she might have a remedy for the damage to the mower and to the shed. Consider whether she is likely to be compensated for the loss of her valuable cat and kittens, and for the emotional shock she has suffered. Explain which court or courts might hear any claims that she brings.

**(Total 25 marks)**

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**TOTAL FOR SECTION A: 50 MARKS**

## SECTION B: The Workplace

5. *A* was employed by *B* as a mechanic in a garage. Her job involved carrying out repairs to lorries. When the workshop was very busy, *B* would phone *C* and ask him to help out, paying him an hourly rate for his work. *C* was semi-retired but he would take on occasional work from three different garages, usually taking his own tools to work with him.

One very cold morning, *A* was recovering from a heavy cold and felt ill, so *B* phoned *C* and asked him to help *A* that day. On that occasion *C* forgot some of his tools and used tools supplied by *B*. *A*, who was feeling dizzy, was working at the side of a lorry when *C*, who was working in the cab of the lorry, accidentally dropped a heavy metal tool, which hit *A* on the head. *A* was knocked unconscious, and, hearing the noise, *B* rushed out to the workshop and slipped on some oil which had been spilled on the ground by *D*, who had delivered some goods the day before. *A* sustained a severe head injury, and *B* suffered a serious back injury.

Consider whether *A* and *B* can claim compensation and from whom.

**(Total 25 marks)**

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6. *E* owned a company which was in financial difficulties. In order to reduce his workforce, he set up a voluntary early retirement scheme, offering employees a sum equal to a year's salary in addition to their pension entitlement. The following people applied for early retirement.

*F*, aged 64, who was secretly planning to retire in any event as soon as he was 65.

*G*, aged 60, who was carrying out vital work that could not be done by anyone else.

*H*, aged 30, who had been on sick leave for a year.

*J*, aged 45, who was a woman working in the canteen who wanted to retire to look after her grandchildren.

*E* refused *F*'s application on the grounds that he was close to retirement age.

He refused *G*'s application because he considered that *G* was vital to his organisation.

He dismissed *H* on the grounds that he had been on sick leave for too long.

He accepted *J*'s application, but this decision was challenged by *K*, also aged 45, who had asked to retire on the same terms and had recently been refused.

Advise *F*, *G*, *H* and *K* as to what legal and practical steps they should take in order to challenge *E*'s decisions.

**(Total 25 marks)**

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7. *L* owned a small brewery, and took pride in the wide range of specialist beers that were produced there. When *L* had first employed *M*, he had asked *M* to sign a contract containing the following clause:

*“L’s beers are brewed using specialist secret ingredients and techniques. It is important to keep the process secret. Therefore the employee, M, agrees not to work in the brewing industry for 15 years after leaving L’s employment.”*

In fact, unknown to *L*, *M* was a cousin of *N*, one of his greatest rivals, and as soon as he had worked for *L* for two years, *M* left *L*’s brewery and went to work for *N*, telling *N* everything he had discovered while employed by *L*.

Advise *L* as to whether he can enforce the clause in *M*’s contract of employment and, if so, how.

**(Total 25 marks)**

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8. *P* was employed by *Q Ltd* as a departmental manager on a salary of £80,000 per annum. *P* was also entitled to a company car and to an annual bonus based on the annual profits of *Q Ltd*. However, the only statement in *P*’s written contract relating to the bonus was:

*“From time to time, Q Ltd may, at its discretion, make bonus payments to the employee.”*

The contract allowed for termination of employment on three month’s notice given by either party, and for a special hearing before a panel of directors in the event of a possible dismissal for an accusation of misconduct on the part of the employee.

*Q Ltd* had dismissed *P* without notice because it was believed that he had been receiving bribes for placing orders with a certain company. However, this was simply a misunderstanding on the part of *Q Ltd*, which had no positive evidence about what had been happening.

Four months after *P* was dismissed, he discovered that he could have been paid an annual bonus of £8,000 had he continued to work for *Q Ltd*. *P* has not looked for alternative employment because he says he is too depressed as a result of stress caused by his dismissal. *Q Ltd* has offered *P* £15,000 in final settlement of all claims, and has asked him to sign a “gagging” clause promising that he will not discuss the events that have occurred or bring any form of legal action against *Q Ltd*.

Advise *P* as to whether he should accept the settlement on offer and sign the clause.

**(Total 25 marks)**

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**TOTAL FOR SECTION B: 50 MARKS**

### SECTION C: The Family

9. *A* and *B* married on 1<sup>st</sup> August 2004, and had two children aged six and four. Throughout their marriage *A* and *B* had problems arising from *B*'s possessive behaviour, though he was never physically violent towards *A*. *B* suspected *A* of having affairs, and the couple had rows in which he accused her of having relationships with work colleagues. *B* would constantly phone *A* at work and spy on her during her lunch hour to see whether she was meeting anyone. *B* regularly looked at *A*'s text messages on her mobile phone and checked her emails.

*A* wanted to have a successful career, but *B* tried to make her give up work and stay at home to look after the house and the children. Matters became serious when *B* refused to meet the children from school and left them waiting in the cold at the school gates while he followed *A* to a meeting. *A* was furious with *B* and told him to leave the family home, but *B* sat in his car for two days over a weekend and began to make phone calls to *A* threatening to "put an end to her and take the children".

Explain the legal steps, if any, that *A* can take to protect herself and her children.

**(Total 25 marks)**

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10. *C* and *D*, both women, were in a civil partnership, and they had two children, *E* aged eight, and *F*, aged six months. *E* was born to *C* as a result of an informal sperm donation by *G*, a good friend of *C*. *G* had regular contact with *E* every weekend.

*F* was born to *D* as a result of fertility treatment at a clinic registered under the Human Fertilisation and Embryology Act 2008. *C* consented to *D*'s donor insemination at the clinic. *D*'s parents were unhappy about the fact that their daughter was living in a lesbian relationship, so *D* was preventing them from seeing *F*.

*C* and *G* are becoming increasingly concerned about *E*'s emotional well-being, as she is teased at school because some of her classmates know that *C* and *D* are civil partners and lesbians. *C* would like to claim financial support from *G* to help her pay fees for a private school. *G* would like to take *E* to live with him.

Explain the legal positions of *C* and *D*. Advise *G* as to whether he has any right to take *E* to live with him. Consider whether *G* is legally obliged to provide financial support for *C*. Consider whether *D*'s parents have a legal right to see *F*.

**(Total 25 marks)**

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11. *H* and *J* have been married for eight years, and they are both aged 39. *J* inherited £20,000 when her aunt died five years ago, and she used the money to pay a deposit on the three-bedroom house in which they live. The house has been valued at £300,000 and the couple have a mortgage of £200,000. Their children *K*, aged five, and *L*, aged four, attend a school near to where they live. *H* is a qualified nurse who was earning £30,000 a year before he developed a serious illness that prevented him from nursing, so he has given up work. *J* is an engineer earning £90,000 a year. *H* drives a car worth £4,000, and *J* has a car worth £10,000. *J* has been contributing to a company pension scheme which is due to pay out when she is 65. *H* stopped paying into his pension fund when he left nursing.

*J* has now met *M*, and has decided to leave *H* and the children and move into *M*'s council flat. *H* will have to employ someone to help him with the children as his disability makes it difficult for him to deal with them.

Advise *H* and *J* about the law affecting them in respect of a divorce, arrangements for their children, and the financial settlement that they might reach.

**(Total 25 marks)**

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12. *N*, a disabled child, was adopted by *P* and *Q* when he was a baby. *P* and *Q* have since had two children of their own, *R* and *S*, and they find it difficult to cope with *N* who has violent rages and can be very aggressive towards the other children. *P* has a problem with alcohol abuse, and he occasionally hits *N* hard when he loses his temper with him, but he has managed to hide this from *Q*.

One day, when *Q* was bathing the younger children, *P* hit *N* so violently that he fell downstairs and died as a result of a head injury. A post mortem examination of *N*'s body revealed several cigarette burns on his stomach. *P* is the only smoker in the house.

*P* and *Q* have been arrested by the police. *P* claims that *N* fell down the stairs accidentally and he denies ever injuring *N*. *Q* accepts that, as she did not cause any injury to *N*, *P* must have been responsible, although she had never suspected that *P* was abusing *N*. *R* and *S* are currently staying with *Q*'s elderly parents, but social workers would like to take them into care and place them in foster homes.

Explain how the social workers should proceed in order to comply with the relevant legal requirements. Consider how *Q* might be able to have *R* and *S* returned to her care.

**(Total 25 marks)**

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**TOTAL FOR SECTION C: 50 MARKS**



## SECTION D: The Criminal Offender

13. *B* had been going out for two years with *A*, who was a heavy drinker. He often got drunk and fell into terrible rages. One evening, after a bout of drinking, *A* called at *B*'s house and lost his temper with her. He picked up a heavy metal object and threw it at *B*'s head, causing severe injuries.

*A* immediately regretted what he had done and called an ambulance. *B*, who wore a wristband stating that she was allergic to penicillin, was taken to hospital. The hospital had no guidelines in place about procedures for dealing with allergies. *Dr C* gave *B* an injection of penicillin. *B* died as a result of an allergic reaction to the penicillin, but the evidence is that she would have died within a few hours in any event, as a result of her head injuries.

Consider the criminal liability, if any, of *A*, *Dr C* and the hospital for *B*'s death.

**(Total 25 marks)**

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14. *D* was a nervous person, and he lived in a rough area of town. When he was walking home to prune his roses, he noticed *E* and *F* walking towards him carrying large sticks. *D* thought they were going to attack him, so he crossed the road, but they started to shout obscene words at him. *D* shouted at *E* and *F* saying, "*Keep away from me, or I'll have to defend myself*".

In fact, *E* and *F* were taking the sticks to support plants in their garden. *E* and *F* started to run away, thinking *D* had a knife. *E* tripped over the kerb and broke his leg, and *F*, who suffered from a lung complaint, became breathless and fell on top of *E*. *E* thought he was being attacked, and started hitting out violently, giving *F* a black eye.

*D* began to run in the opposite direction, but fell onto a pruning knife which he was carrying in his pocket. The knife severed an artery, and although *E* and *F* could see what was happening they did nothing to help *D*, who bled to death in the road.

Consider whether any crimes have been committed, and if so, by whom. Explain which court or courts are likely to try any person who is charged.

**(Total 25 marks)**

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15. *G*, aged 17, who had no previous criminal convictions, was a single mother who had one child. She had two different jobs, and was often very tired. As she was short of money for food, *G* took £30 from the till in the shop where she worked part time, intending to return the same amount two days later when she was paid. However, she placed a bet on a horse that won and was able to return the money before her employer discovered what she had done.

The next day, *G* received an electricity bill for £500, which she could not afford to pay. She visited her mother later that morning, and taking a cheque from her mother's cheque book, *G* signed it, copying her mother's signature, and used it to pay the electricity bill.

*G* then went to work in her second job, as a waitress in a hotel. At the end of the day there was food left over in the hotel kitchen. *G* took half a chicken and some bread to ensure that her child had a good meal that evening.

Consider whether *G* has committed any crimes, and if so, in which courts she may be tried. If she is convicted, what sentence might be imposed?

**(Total 25 marks)**

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16. *H*, aged 18, and *J*, aged 15, were playing in a farmer's field when they lit a fire to keep warm. The fire started to spread towards a nearby haystack. When *H* realised what was happening he left the field in a hurry. *J*, who did not notice that the fire was spreading, followed *H* as he did not want to be left alone. The fire destroyed the haystack before it could be extinguished. The farmer lost hay to the value of £1000.

The following day, *H* was sitting on a park bench with *K*, his girlfriend, when he had an epileptic fit. During the seizure, *H* was unaware of what he was doing, and he strangled *K*, killing her. *H* was shocked later to discover what had happened.

Consider whether *H* and *J* have committed any crimes and, if so, how the criminal justice system might deal with them.

**(Total 25 marks)**

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**TOTAL FOR SECTION D: 50 MARKS**

### SECTION E: The Individual

17. *A*, an elderly black woman, was walking innocently past a large, spontaneous demonstration in which cars were being set alight. *B* shouted racist abuse at *A*, and *C* shoved a racist banner at her, causing her to fall into the road. *D*, a police officer, hit *A* very hard with a police truncheon, causing her to suffer a heart attack. She died at the scene.

Meanwhile, the police placed a large rope around a section of the crowd, and refused to allow anyone to leave the roped-off area. *E* and *F*, aged 13 and 15, who had been innocently caught up in the demonstration on their way home from school, were anxious to go home. It was getting dark, and both *E* and *F* were feeling very cold and becoming very upset.

*G* was watching these events from her bedroom window, and was very frightened by what she saw.

Consider what public order offences, if any, have been committed, and by whom. What remedies might be available in this situation? Exclude liability for the death of *A* from consideration.

**(Total 25 marks)**

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18. *H* was a famous actress. She had an extra-marital affair with *J*, a well-known banker. On one occasion, *J* asked *H* to meet him in a hotel, and this made *H* suspicious that *J* might have some idea of allowing the media to know about their relationship. Soon afterwards, *H* noticed a newspaper reporter watching her house, and she was worried that he might be planning to publish an article about her relationship with *J*. She decided to seek a super injunction to protect her privacy. Meanwhile, *K*, a neighbour, had been watching *H*'s movements. Before the application for the grant of the super injunction, *K* told *L* about *H* and *J* in a conversation on a social networking website based in Australia. This allegation quickly spread across the internet until thousands of people, in the UK and overseas, knew about the affair.

Consider whether *H* is likely to obtain a super injunction.

What would be the position if *X*, a member of Parliament, decided to name *H* and *J* in the House of Commons in the course of a debate?

**(Total 25 marks)**

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19. *M*, aged 15, and *N*, aged 18, whose first language was not English, were both wearing hooded tops as they walked to a station one dark evening to catch a train to a city a 100 miles away where, by coincidence, a football match was to be played the following day. They were carrying cans of lager in their pockets, and had rucksacks on their backs. They were stopped by *P*, a police officer, who thought they looked suspicious. *P* asked them to give their addresses, and although *N* gave his correct address, *M* gave them a false address because he did not want his parents to discover that he was going to be out of the area.

*P* asked both boys to remove their outer clothing, and searched both *M* and *N* in the street. He found a pocket knife in *N*'s pocket, and some stones in *M*'s pocket. *M* was carrying the stones for an innocent purpose as he was studying geology in school.

*P* arrested *M* and *N* without giving a reason for the arrest, and took them to the police station. There was, however, a terrorist alert in the area and the police station was very busy. Their pockets were emptied and they were taken to the cells. The custody officer could not find a solicitor at that time of night, and told them that they would have to stay in custody until the morning. However, they were both questioned for two hours before they were allowed to sleep. *N* became very agitated because he could not understand what was being said to him.

Both *M* and *N* were eventually released at noon the following day, but neither saw a solicitor, or indeed anyone else who might have given them some support.

Consider the legal position of *M* and *N*, whether they might have any remedies, and whether *P* acted within the law.

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**(Total 25 marks)**

20. *Q* organised a book festival in a small country town. She did not realise how much interest the event would generate, and did little to alert the authorities. Crowds of people poured into the area, and there were many traffic jams in the streets.

*R* arrived with a group of 15 friends, all of whom had vans or caravans. *R* and his friends parked their vehicles on land belonging to *S*, a farmer, who bred race horses. *R* and his friends used the hedgerows as toilets, and lit fires on the open fields, causing smoke to drift onto *T*'s strawberry farm, destroying the entire crop. They allowed their children to run around the town unsupervised, and when a small group of children sat in the middle of the road, blocking the traffic, they did nothing to move them.

*S* was very concerned about the noise and disruption because two of his mares were due to give birth. Several nervous horses escaped onto the highway because *R* left a gate open. One valuable horse had to be destroyed because it collided with a car, causing damage to the car and serious injury to *V*, the driver.

Consider whether *Q*, *R* and his friends are legally liable for any of the events that occurred, and whether *S*, *T* and *V* have any legal remedies.

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**(Total 25 marks)**

**TOTAL FOR SECTION E: 50 MARKS**

**TOTAL FOR PAPER: 100 MARKS**

**END**