

General Certificate of Education
January 2007
Advanced Level Examination



LAW

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

LAW5

Friday 19 January 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** Uma and Violet were employed by Warren. One day at work, Uma discovered that Violet had left her purse in the toilets. Uma removed a fitness club membership card from the purse and then put the purse in the wastepaper bin (from which it was later removed and returned to Violet by a very alert colleague). Uma subsequently used the membership card to get herself a training session at the fitness club, for which she would normally have had to pay £10. She quietly dropped the card at the reception desk when she left. Next day, Uma used the photocopier at work even though a notice on it said, ‘Care! Copier overheating.’ A fire broke out in the copier and the building had to be evacuated before the fire was controlled.

Ali and Warren were business rivals. Ali wanted Uma to supply secret information about a new product being developed by Warren. Uma agreed after Ali offered her money and also threateningly told her that “some of his friends” were “watching” Uma’s young daughter “very closely”. Uma worked in a large open office, where each employee’s desk and working space were separated from the others by a movable screen. Uma knew that the product information was kept in Violet’s filing cabinet. When Violet went out for lunch, Uma slipped behind Violet’s screen, broke the lock on the drawer of the filing cabinet and removed the relevant papers. She then made copies, which she gave to Ali, and put the originals back in Violet’s filing cabinet.

- (a) Discuss Uma’s criminal liability for a range of property offences arising out of the incidents involving the purse, the use of the membership card, and the fire in the photocopier. *(25 marks)*
- (b) Discuss Uma’s criminal liability for any property offences arising out of the circumstances in which she supplied copies of the product information to Ali. *(25 marks)*
- (c) Discuss the suggestion that the offence of theft is in urgent need of reform. *(25 marks)*

Total for this question: 75 marks

- 2 Rose advertised some old toys for sale. One was a model car which, unknown to her, would raise about £500 in the market for toy cars. Without revealing that he was a dealer in toys, Sam went to Rose's house, immediately recognised the value of the model car, and bought it from Rose for £3. As Rose handed it to him, she laughed and said, "I hope you are not a dealer trying to take advantage of me!" In turn, Sam merely smiled.

Sam subsequently sold the model car for £490 and decided to celebrate by drinking heavily in a bar. When he left the bar, he wandered unsteadily into a shoe shop and tried on a pair of shoes. Before anyone realised what had happened, he had walked out of the shop and down the street, still wearing the shoes. Eventually, Trisha, a shop assistant, ran after him. However, Sam would not be persuaded that they were not his shoes. He pushed Trisha away roughly and walked on a little further before suddenly collapsing in a drunken stupor. By now, the shoes were scratched and could no longer be sold at full price.

- (a) Discuss Sam's possible criminal liability arising out of the way in which he acquired the model car from Rose. *(25 marks)*
- (b) Discuss Sam's possible criminal liability for **property** offences in connection with the incidents involving the shoes. *(25 marks)*
- (c) Discuss the suggestion that the offence of theft is in urgent need of reform. *(25 marks)*

Turn over for the next question

Turn over ►

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

- 3 Nine months ago, Jarvis began to open his large house and gardens to the public. The entertainment provided included a twice-weekly sound and light show, and a firework display once a month. The neighbouring land was owned and farmed by Ken, who complained that the noise from the entertainments was seriously disturbing both him and his family, and was also affecting the wellbeing of his cows, resulting in a significant reduction in milk in recent months. Additionally, on two occasions, powerful fireworks had veered off course and had fallen on Ken's land, causing damage to barns. In turn, Jarvis complained that Ken seemed frequently to spread manure on his land close to the boundary with Jarvis's land, where there was no obvious reason for its use.

Liam and Maurice visited Jarvis's house and gardens on the same day, on which there was torrential rain. Liam paid to enter, but Maurice managed to sneak in without paying. Jarvis's gardens were laid out on a number of levels, the path between two levels consisting of steep steps. Down one side of the steps was a low spiked fence, to which a handrail was attached. A notice at the top of the steps warned that extra care was necessary in wet weather. Liam slipped and overbalanced whilst running down the steps holding the handrail, and was jerked round onto the spikes of the fence, ripping his face open. Maurice stumbled on the crumbling edge of a step and fell down a number of steps, breaking his arm.

- (a) Discuss the rights and remedies, if any, available to Ken against Jarvis, **and** to Jarvis against Ken. *(25 marks)*
- (b) Discuss the rights and remedies, if any, available to Liam and to Maurice against Jarvis. *(25 marks)*
- (c) Choose **one** of the following:

With regard to economic loss, discuss the suggestion that the law unduly restricts the rights of claimants to recover compensation. *(25 marks)*

OR

With regard to psychiatric injury, discuss the suggestion that the law unduly restricts the rights of claimants to recover compensation. *(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 Bonnie owned and published *Invest*, a journal which was well respected in the business and financial sector for its accurate assessment of the likely economic success of new inventions. Callum invested heavily in an invention by Doug after seeing it highly praised in an article written by Earl, one of *Invest's* journalists. Fritz also saw the article and spoke directly to Earl about Doug's invention, after which he too invested heavily in it. Both Callum and Fritz lost all the money they had invested, when it later appeared that there was a fundamental weakness in Doug's invention which Earl had failed to spot.

On the day he received news of his financial loss, Callum was driving his car in a rather absent-minded way. He lost control of the car, which mounted the pavement and struck some scaffolding around a building. At the time, Grant was at the top of the scaffolding, leaning out to shout to someone below, and was not wearing a safety harness. The impact caused him to fall and suffer severe head injuries. As he fell, he narrowly missed a workmate, Hayden. The whole incident was witnessed by Ilsa from just across the road. Both Hayden and Ilsa suffered prolonged psychological problems afterwards.

- (a) Discuss the rights and remedies, if any, available to Callum and Fritz against Earl **and** against Bonnie in connection with the loss of the investment money. (25 marks)
- (b) Consider whether Grant, Hayden and Ilsa have any rights and remedies against Callum, in connection with the injuries that each suffered, arising out of the collision between Callum's car and the scaffolding. (25 marks)
- (c) Choose **one** of the following:

With regard to economic loss, discuss the suggestion that the law unduly restricts the rights of claimants to recover compensation. (25 marks)

OR

With regard to psychiatric injury, discuss the suggestion that the law unduly restricts the rights of claimants to recover compensation. (25 marks)

OR

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

Turn over for the next question

Turn over ►

Protection of Human Rights

Total for this question: 75 marks

- 5 Oona recently bought a house from Preston, who, though obviously well into middle age, had clearly married in recent years and had a young family. Whilst examining the loft, she found a folder of newspaper cuttings behind a sealed panel. The cuttings related to serious offences of violence that had occurred in a different part of the country some 25 years earlier, for which a man named Robin had been convicted and had served 15 years in prison. The offences had created general outrage, and relatives of the victims had sworn to take revenge on Robin, no matter how long they had to wait to do so.

Oona suspected that Preston and Robin might be one and the same person. She mentioned her suspicions to her friend, Sid, a freelance investigative journalist, and gave him the cuttings. Sid succeeded in proving Robin's new identity as Preston, and discovered that he had been undergoing counselling for his problems for some years with Focus Counselling. Sid managed to persuade Tia, a secretary at Focus Counselling, to supply him with photocopies of notes of the sessions. He then sold the information to *The Daily Chronicle*, a national newspaper.

The newspaper secretly photographed Preston (Robin) entering and leaving the counselling sessions. They then contacted him and told him that they proposed to publish a series of articles reminding the public of the events of 25 years before, revealing Robin's current identity and location. The newspaper would also claim that the substance of the counselling sessions was that he was still a danger to members of the public.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss the rights and remedies, if any, available to Preston (Robin) against Oona, Sid, *The Daily Chronicle* and Tia. (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**

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has failed to establish an appropriate balance between the protection of interests **in privacy** and the protection of freedom of expression. (25 marks)

OR

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has failed to establish an appropriate balance between interests **in the preservation of public order** and the protection of freedom of expression. (25 marks)

Total for this question: 75 marks

- 6 Using powers given to local authorities by statute, Northport City Council imposed parking restrictions in certain areas of the town and employed wardens to enforce the restrictions. Special parking permits were available for residents of these areas. In an attempt to detect fraudulent use, Northport City Council employees regularly photographed drivers using the permits. Some of these photographs had already been published in Northport City Council's free newspaper under the headline, 'Why do these drivers try to cheat the system?' In some cases, the photographs published were of drivers who had properly obtained permits. Photographs of other drivers were awaiting publication.

Neil notified the police that a large group of residents planned to march to the Council offices, hold a protest meeting and hand in a petition expressing opposition to the parking restrictions. The police indicated that they proposed to impose the following conditions:

- the route of the march must not include any of the areas designated for the parking restrictions, nor go past the wardens' offices
- a maximum of 25 protesters would be allowed to conduct a meeting in the square opposite the Council offices, of whom six would be allowed to present the petition itself
- the meeting would be allowed to last no more than 30 minutes.

In a subsequent newspaper interview, Neil indicated that he and the residents would probably attempt to ignore the conditions.

- (a) Including in your answer a consideration of the effect of the Human Rights Act 1998 and the European Convention on Human Rights, discuss the rights and remedies, if any, available to the drivers in respect of the actual or proposed publication of photographs by Northport City Council. *(25 marks)*
- (b) Including in your answer a consideration of the effect of the Human Rights Act 1998 and the European Convention on Human Rights, discuss the law applicable to the actions of Neil and the residents, and to the response of the police. *(25 marks)*
- (c) **EITHER**

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has failed to establish an appropriate balance between the protection of interests **in privacy** and the protection of freedom of expression. *(25 marks)*

OR

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has failed to establish an appropriate balance between interests **in the preservation of public order** and the protection of freedom of expression. *(25 marks)*

Turn over ►

Consumer Protection**Total for this question: 75 marks**

- 7 Bert saw a notice in the window of Colin's DIY shop, which said that anyone who bought the latest workbench, manufactured by Dexters, would be entitled to a free handsaw. In very small print at the bottom corner of the notice was the statement, 'subject to availability'. Bert bought a Dexters workbench, and also an electric pressure water-hose said to be 'suitable for all household tasks'. However, Colin refused to supply a free handsaw, insisting that he had used up all his free stock. The water-hose split on the third occasion that Bert used it, and the replacement supplied by Colin was not powerful enough to clean brickwork on the outside of his house. Bert now wanted his money back, but Colin said that notices at his shop's counter made it clear that no refunds would be given once goods had been used.

Bert gave the Dexters workbench to his work colleague, Edwin, as a leaving present. When Edwin assembled the workbench, he found the instructions complicated and incomplete. Though he thought he had assembled it correctly, it collapsed whilst he was using it to cut wood with an electric saw. The saw plunged into his leg and caused a severe wound. His £200 electric saw was also badly damaged.

- (a) Discuss the rights and remedies of Bert against Colin in connection with the electric pressure water-hose and the refusal to supply a free handsaw. *(25 marks)*
- (b) Discuss the rights and remedies of Bert and of Edwin against Colin and Dexters in connection with the workbench and the subsequent injury and damage. *(25 marks)*
- (c) To what extent would you agree that, at present, consumers of goods and services have insufficient rights and remedies against those who supply them? *(25 marks)*

Total for this question: 75 marks

- 8 Vince, the owner of a building services firm, put an advertisement in the local press which stated, 'Fantastic offer for one week only! Labour charges at half price!' Will saw the advertisement and arranged for Vince to carry out repairs and other work on a room in his house. This consisted of replacing the ceiling, redecorating the room and installing shelving and cupboards. The total cost was £2100, to be paid in three equal instalments of £700, as the work progressed. Will made the first payment after the ceiling was replaced. He refused to make the second payment because, he alleged, the materials used in the redecoration were of inferior quality. Will also refused to let Vince install the shelving and cupboards. Additionally, Will discovered that the information in Vince's advertisement incorrectly stated his usual labour charges, and that he was actually charging Will much more than half of his normal labour charges.

Will decided that, whilst his daughter, Yana, was away on holiday, he would surprise her by having a patio laid at the back of her house. He agreed with Alonso that Alonso would supply and lay the patio tiles for £1500. The work was finished shortly before Yana's return. When Will and Yana saw it, they were both dismayed to find that rainwater collected in large pools in the centre. They also noticed a variation in the shade of colour of some of the tiles. The cost of curing these defects was estimated at £800, but Alonso pointed out that the agreement with Will included a clause restricting Alonso's maximum liability to the cost of the materials supplied (£600).

- (a) Referring both to criminal and to civil law, discuss the rights, duties and remedies of Vince and of Will arising out of the advertisement and the work on the room. *(25 marks)*
- (b) Consider the rights and remedies of Will and of Yana against Alonso, arising out of the problems with the patio. *(25 marks)*
- (c) To what extent would you agree that, at present, consumers of goods and services have insufficient rights and remedies against those who supply them? *(25 marks)*

END OF QUESTIONS

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