

General Certificate of Secondary Education
June 2007



LAW
Foundation Tier

3161/F
F

Wednesday 13 June 2007 1.30 pm to 3.30 pm

For this paper you must have:

- a 12-page answer book.

Time allowed: 2 hours

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 3161/F.
- This paper is divided into **three** sections.
In **Section A**, answer **all** parts of **both** questions.
In **Section B**, answer **all** parts of **one** question only.
In **Section C**, answer **all** parts of **one** question only.
- Do all rough work in the answer book. Cross through any work you do not want to be marked.
- Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Information

- The maximum mark for this paper is 84.
Four 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.

Advice

- You are advised to spend no more than 30 minutes on **Section A**, 45 minutes on **Section B** and 45 minutes on **Section C**, and to read through **all** parts of a question before you start your answer.

SECTION A

Answer **all** parts of **both** questions from this section.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Total for this question: 12 marks

1

Two divisions of English law are civil law and criminal law. There are different rules, procedures and court structures covering each area.

Civil law sets out a range of rights and duties which apply between individuals. These rights and duties are included in the following:

- the law of tort, in which an individual claimant can sue in negligence, nuisance, trespass or defamation
- the law of contract, which deals with legally binding agreements between two or more individuals, where both parties give or promise to give something of value.

Criminal law is one of the areas of law governing the relationship between an individual and the State. A crime is an offence against the State, punishable by the State. Different offences include the following:

- homicide (generally murder or manslaughter)
- non-fatal offences (such as common assault, actual bodily harm (abh) and grievous bodily harm (gbh))
- offences against property (including theft, robbery and burglary).

Some situations can give rise to both a civil action and a criminal prosecution.

In **each** of the following situations, identify whether it involves **civil** law, **criminal** law or **both** civil **and** criminal law. Identify the **specific** area of law involved, **and** briefly discuss the main issues which are likely to be raised in court.

- (a) Alan had just bought and repaired a large house which was converted into sheltered flats for older people. Because he was running short of money during the conversion, Alan decided to buy some second-hand gas boilers for the central heating. He serviced and installed them himself, despite not being qualified to do so. Unfortunately, one of the boilers exploded and one of the residents, Beth, was killed. *(4 marks)*
- (b) Clyde was shopping in town and saw a stereo system in the window of Decks Ltd (D), a top-of-the-range hi-fi store. The hi-fi system was, in error, priced at £150 when it should have been £1500. Clyde insisted that he should have it for £150, but the manager refused to sell it at that price. *(4 marks)*

- (c) Elizabeth is an experienced and well-respected teacher at Fineways School, where she teaches home economics. While reading *The Gazette*, her local newspaper, Elizabeth saw a letter from Heidi, a parent of a child at the school. This letter attacks the teaching of home economics, “especially to boys, and especially by a teacher who is more interested in the boys than the baking!” Elizabeth is furious, and is disputing what is being suggested in the letter. (4 marks)

Total for this question: 8 marks

2

Cases within the English legal system can be tried by a wide range of different people. These people include different kinds of judge, such as District Judges, Circuit Judges, High Court Judges and Lords Justices of Appeal. Cases can also be tried by magistrates, before juries, and also by tribunal members sitting in different sorts of tribunal.

In **each** of the following situations, **identify** who is most likely to be trying the case, and **briefly explain why**.

- (a) Ivy, aged 16, has been charged with actual bodily harm (abh) and is due in court next week. (2 marks)
- (b) John has been accused of a serious assault on a teacher. At an initial hearing, the magistrates decided that they should not try the case. (2 marks)
- (c) Keith, despite being very well qualified, has been turned down for promotion in his job as a ladies fashion designer. A female employee, Lena, has been promoted instead, even though she is less well qualified and less experienced. (2 marks)
- (d) Megan was seriously injured at work in an accident caused by the negligence of Nazir. Megan has been awarded £120 000 damages by the High Court, much less than she was expecting. Megan is now planning to appeal. (2 marks)

Turn over for the next section

Turn over ►

SECTION B

Answer **either** Question 3 **or** Question 4.

Carefully read **both** questions before you make your choice.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Total for this question: 30 marks

3 Study the extract below and then answer **all** parts of the question which follows.

Permission to publish this extract on the web has been denied.

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- (a) Explain, in outline, what is meant by the following:
- common law actions
 - probate
 - family-based cases. *(4 marks)*
- (b) (i) Describe the key features of the **Fast Track** procedure. *(3 marks)*
- (ii) Briefly comment on the **advantages** of this procedure. *(3 marks)*
- (c) **Not** including training, outline **two** of the traditional differences between solicitors and barristers. *(3 marks)*
- (d) Describe, in outline, the **specialist training** which must be undertaken by the following:
- (i) a would-be solicitor;
 - (ii) a would-be barrister. *(4 marks)*
- (e) With reference to barristers, explain what is meant by **QC** and, briefly, how such an appointment is made. *(2 marks)*
- (f) Discuss whether the public would be better served by a single (fused) legal profession or by a divided profession, as it is now. *(4 marks)*
- (g) With respect to the provision of legal advice, explain what is meant by the following:
- (i) Legal Help;
 - (ii) Citizens Advice Bureau (CAB). *(4 marks)*
- (h) Outline how a claimant may qualify for Legal Representation in a civil case. *(3 marks)*

Turn over for the next question

Turn over ►

Total for this question: 30 marks

- 4 Study the two extracts below and then answer **all** parts of the question which follows.

As a magistrate, you will perform a vital public service. You will be hearing the less serious **criminal cases** such as minor theft (for example, ‘shoplifting’) and motoring offences. You may also deal with a range of non-criminal cases affecting **families and children**, or criminal matters concerning **young people**, or with **civil cases** involving matters like licensing or Council Tax.

There are about 30 000 magistrates in England and Wales. As one of them, you will be willing to give up your time and give your expertise for free.

You will usually sit as one of a bench of three magistrates. A qualified **Legal Adviser** (Magistrates’ Clerk) will also be there to advise you on points of law and procedure.

You will hear the evidence in each case and reach a verdict. If a defendant is found guilty or pleads guilty, you will decide on the most appropriate **sentence**.

Source: DEPARTMENT OF CONSTITUTIONAL AFFAIRS website, *Your Role as a Magistrate*

Permission to publish this extract on the web has been denied.

- (a) There are two different types of magistrate who sit in the Magistrates’ Court. These are lay magistrates and District Judges (Magistrates’ Court).

Briefly explain the main differences between them. (3 marks)

- (b) As indicated in the first extract, a Magistrates’ Clerk is present in court to act as Legal Adviser to the magistrates. Briefly describe **one** other role carried out by a Magistrates’ Clerk. (2 marks)

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- (c) As indicated in the first extract, magistrates hear a range of different cases in court.
- (i) Outline the **procedural** difference between a case of a **minor theft** and a **minor motoring offence**. *(2 marks)*
- (ii) Briefly explain the type of work involved in cases concerning the following:
- families and children
 - young people. *(3 marks)*
- (d) Explain how magistrates decide on an appropriate **sentence** following a plea or verdict of guilty. *(3 marks)*
- (e) Briefly comment on the **advantages** of using lay magistrates. *(3 marks)*
- (f) (i) State the **three** basic qualifications for jury service. *(3 marks)*
- (ii) Name **two** groups of people who may be **disqualified** from jury service. *(2 marks)*
- (g) Briefly describe **one** problem of using juries in defamation cases. *(2 marks)*
- (h) Outline what is meant by a **majority verdict** in court and when such a verdict would be allowed. *(3 marks)*
- (i) Discuss any **disadvantages** of the system of trial by jury. *(4 marks)*

Turn over for the next section

Turn over ►

SECTION C

Answer **one** question from this section. Carefully read **all** questions before you make your choice.

Answer **all** parts of the question you choose.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Total for this question: 30 marks

5 Contract

There are established rules in contract law. One rule states that a legal contract requires an intention by both parties to create legal relations.

Another set of rules states that, where the contract is entered into by a minor (a person under the age of 18), that contract may be unenforceable, voidable or valid, depending on the circumstances.

Finally, the law requires that in a contract for the sale or supply of goods, those goods must match their description, must be of satisfactory quality, and be fit for their intended purpose.

The Problem

Anton, aged 17, borrowed £1000 from Bill, his father, in order to buy a car and agreed to repay the money over the next year. However, he then booked a surprise luxury weekend away for himself and his girlfriend, Charlotte, the money to be paid in two weeks' time. Charlotte was delighted and, when she found out about the holiday, agreed to share the costs with Anton.

Anton then borrowed, at a very high rate of interest, another £250 from Denis, a moneylender, so that he could put a £750 deposit on a car. He bought the car from Ellie, a private seller, and agreed to make repayments of £120 a month for the next 18 months to Financial Services Ltd (FSL), a loan company. Anton told Ellie and FSL that he was over the age of 18.

Anton, who was still 17, then lost his job and could not afford to pay back either Bill, Denis or FSL. Five days after Anton took possession of the car, the engine seized, causing a lot of damage. The car has now been 'written off' and cannot be used.

Shortly before the money was due for their weekend away, Charlotte broke off their relationship, leaving Anton with a bill for £500 which he cannot afford.

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- (a) Explain what is meant by an **intention to create legal relations** when applied to an agreement between members of a family. *(4 marks)*
- (b) With reference to the luxury holiday, discuss the following:
- (i) taking into account Anton's age, whether the purchase of the holiday would amount to a valid contract; *(4 marks)*
 - (ii) whether or not Anton could, if necessary, legally recover any of the £500 from Charlotte. *(4 marks)*
- (c) Taking into account Anton's age, discuss the legal position regarding the loans from Denis and FSL to Anton:
- (i) whilst Anton remains a minor;
 - (ii) after Anton's eighteenth birthday. *(6 marks)*
- (d) With reference to the car bought by Anton from Ellie, discuss the following:
- (i) Anton's contractual rights, taking into account the fact that the engine seized only five days after the car was bought;
 - (ii) how the legal position might have been different if Anton had bought the same car from a car dealer. *(6 marks)*
- (e) If Anton were to pursue a case in respect of the car, it would almost certainly be heard through the Small Claims Track.

Identifying **at least one** advantage and **at least one** disadvantage, comment on how well the Small Claims Track meets the needs of the general public. *(6 marks)*

Turn over for the next question

Turn over ►

Total for this question: 30 marks

6 Tort

The tort of trespass can be committed in three different forms:

- trespass to land, which itself can occur in three different ways
- trespass to goods or conversion, under the provisions of the Torts (Interference with Goods) Act 1977
- trespass to the person, which consists of assault, battery and false imprisonment.

A defendant, in answer to a claim in tort, may be able to plead one or more of the general defences which would excuse him from liability. These defences include consent, inevitable accident, act of God, and self-defence/defence of property.

The Problem

Gordon is a sheep farmer in a quiet country area. The area had recently been used by event organisers for illegal ‘raves’, attracting large numbers of young partygoers. There had been several break-ins in the area, and a quiet corner of Gordon’s farm had also been used for the illegal dumping of rubbish (fly-tipping). Gordon, who was worried for his safety and security, started keeping a loaded shotgun with him at all times.

Late one evening, Gordon heard a lot of activity going on in one corner of his farm and went to see what was going on. He saw a group of men about to start setting up sound equipment for a ‘rave’. One of the men, Hamish, threatened Gordon and told him to leave “or else”. Gordon responded by firing his shotgun in the air, just over the men’s heads. Unfortunately, one of the pellets bounced off a tree and hit Ian, one of the other men, in the eye. While the men were distracted by Ian’s injury, Gordon grabbed Jock, one of the group of men, and forced him to drive Jock’s Land Rover back to the farmhouse. Gordon then locked Jock in a shed and hid the Land Rover at the back of his barn.

- (a) Consider the various forms of **trespass** that may have been committed as a result of the following:
- (i) the illegal ‘raves’ on Gordon’s farm;
 - (ii) the fly-tipping on Gordon’s farm;
 - (iii) the threats made by Hamish to Gordon. *(8 marks)*
- (b) Ian is also considering suing Gordon in tort, and has been advised that he may have a case in either **trespass** or **negligence**.

Consider his chances of success, taking into account any **defence(s)** which Gordon may be able to plead. *(8 marks)*

- (c) Consider which form(s) of **trespass** may have been committed by Gordon with respect to the following:
- (i) Gordon's forcing Jock to drive him to the farmhouse and locking Jock in the shed;
 - (ii) Gordon's taking and hiding the Land Rover. *(8 marks)*
- (d) (i) Identify any **two** remedies which may be appropriate in a trespass case. *(2 marks)*
- (ii) Discuss which of these remedies would be better for Gordon in these circumstances and explain why you have chosen this remedy. *(4 marks)*

Turn over for the next question

Turn over ►

Total for this question: 30 marks

7 Criminal Law

There are many different offences under the Theft Acts 1968 and 1978. These include theft, robbery, burglary and making off without payment.

There are also different non-fatal offences against the person. These include common assault, assault occasioning actual bodily harm (abh), grievous bodily harm (gbh) and wounding.

A person charged with a criminal offence may be able to plead one or more of the general defences which could lead to an acquittal. These defences include consent, self-defence, duress, mistake and intoxication.

The Problem

Kevin and his friends, Lester, Martin and Neil, decided to go into town for a night out. Early in the evening, they were thrown out of the 'Rovers Return' public house after Kevin threatened to 'sort out' the landlord, Owen. After drinking in several more pubs, they decided to head for a nightclub. As they left the 'Flying Horse' public house, Lester grabbed a packet of peanuts from a display by the side of the bar.

As they were walking down the street heading towards 'Strikes' nightclub, Martin realised that he had lost his wallet. Martin saw Phil withdrawing some money from a cash machine. Using his car keys as a weapon, Martin hit Phil in the face, grabbed the money and ran, while Neil filmed the incident on his mobile phone. Phil suffered a deep cut to his face.

Arriving at the nightclub, they were all refused entry by Ranjit, the doorman, because they were all obviously drunk. A fight broke out, mainly between Kevin and Ranjit, during which Kevin suffered a black eye. Ranjit suffered a fractured skull when Kevin hit him on the head with a spanner that he was carrying with him. Sarah-Louise, an innocent bystander, was pushed to the ground by Kevin and broke a small bone in her wrist.

(a) Ignoring any potential defence(s), discuss Kevin's criminal liability as a result of the following:

- (i) the threats made towards Owen;
- (ii) the injury suffered by Ranjit;
- (iii) the injury suffered by Sarah-Louise.

(8 marks)

- (b) Identify and briefly discuss any relevant defence(s) that Kevin may be able to plead with respect to the above incidents. *(3 marks)*
- (c) Consider Lester's criminal liability for offences under the Theft Act 1968 with respect to the packet of peanuts. *(6 marks)*
- (d) Consider Martin's criminal liability for the various offences he may have committed during the incident with Phil at the cash machine. *(5 marks)*
- (e) Identify the **two** courts before which the four friends are likely to appear, before decisions can be reached in their cases. *(2 marks)*
- (f) If convicted, all four could be facing lengthy custodial sentences.

Identify and comment upon the various **aggravating** factors (those things which make the incidents more serious) in the problem set out above. *(6 marks)*

Turn over for the next question

Turn over ►

Total for this question: 30 marks

8 Family Law

Legislation lays down basic requirements for entering into a valid marriage. These requirements include minimum age, minimum number of witnesses and permitted times of marriage. In addition, one party must be male and the other female.

The law on divorce is based upon proof, based on one of five 'facts', that the marriage has broken down irretrievably. In consequence, a court will eventually grant the petitioner a divorce and possibly also an order for maintenance, though generally a process of mediation must be undertaken before a divorce will be granted.

The Problem

Tom has recently started a job at the local Register Office and has only completed an initial training course. One day, because of a flu epidemic, all the experienced staff are off sick and only Tom and you, a work experience pupil from the local school, are in the office. However, Tom knows that you are studying law and approaches you for advice about the following.

- Ursula, a local girl, and Vasily are in the reception area asking for a marriage licence. Vasily's passport shows that he only entered the country three days ago.
- Winston and Yolande are also in reception asking for a marriage licence. Tom is worried because Yolande looks rather young and she is wearing school uniform.
- Tom has received a telephone enquiry from Zak, asking about the law in relation to witnesses, permitted times of marriage and legal marriage venues. He has asked you to ring back with the proper advice.
- At lunchtime, Tom confides in you that he and his wife, Amy, are having marital problems and that he needs some advice about a divorce. Tom has a leaflet from the Citizens Advice Bureau (CAB), but he clearly does not understand some of the terms in the leaflet.

- (a) Briefly explain the difference between a **void** and a **voidable** marriage. *(3 marks)*
- (b) Identify and briefly discuss the key legal issue relating to the intended marriage of Ursula and Vasily. *(3 marks)*

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- (c) Explain to Tom the legal requirements relating to **age** and **marriage**, and the potential consequences for Winston and Yolande if these requirements are not met. (4 marks)
- (d) Describe the relevant law on marriage, relating to **witnesses**, **permitted times** and **legal venues**, that you will need to explain to Zak when you return his call. (5 marks)
- (e) In relation to the law on divorce, explain to Tom the legal meaning of the following terms which he has read in his leaflet:
- (i) ‘irretrievable breakdown’, and how it can be proved;
 - (ii) *decree nisi* and *decree absolute*;
 - (iii) ‘maintenance’;
 - (iv) ‘mediation’. (10 marks)
- (f) Choose **one** of the following legal requirements of a marriage:
- minimum age
 - permitted times
 - permitted venues
 - one man and one woman.

Identify and comment upon the relevant law in relation to the requirement you have chosen. (5 marks)

END OF QUESTIONS

There are no questions printed on this page