

General Certificate of Secondary Education  
June 2007



**LAW**  
**Higher Tier**

**3161/H**  
**H**

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/H.
- 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 105.  
Five 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.

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**SECTION A**

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

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

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**Total for this question: 18 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 also the **specific** area of law involved, **and** discuss the key issues which are likely to be raised in court.

- (a) Amanda had just bought and renovated a large house which was converted into student flats. Because she was running short of money during the conversion, Amanda decided to buy some second-hand gas heaters which she serviced and installed herself, despite not being qualified to do so. Unfortunately, one of the heaters malfunctioned, allowing poisonous fumes into one of the flats. One of the students, Boyd, was killed. His girlfriend, Celia, was made seriously ill and had to spend weeks in hospital. (6 marks)

- (b) Dee saw an advert in her local newspaper from Enterprize Ltd (E), who were selling off a large quantity of surplus stock porcelain figures at £20 each, or three for £50. Dee knew that this was a real bargain and chose three of the figures. She then rang the telephone hotline to place her order and was told to allow 28 days for delivery. Later that day, Dee was shopping in town and saw a display cabinet in the window of Furnimart plc (F), a top-of-the-range furniture store. The cabinet was, in error, priced at £50 when it should have been £500. Dee insisted that she should have it for £50, but the manager refused to sell at that price. Two months later, Dee has still not received her three porcelain figures. (6 marks)
- (c) Graham is an experienced and well-respected law lecturer at Eastlands Further Education College where he teaches GCSE and A Level Law. One day, while reading *The Eastlands Times*, his local newspaper, he saw a report of a speech made by Hector, the headteacher of a local grammar school. In his speech, Hector attacked the teaching of law at A Level, saying that it was a subject which could not be taught well at that level and should only be taught “properly” at university. The newspaper article then linked Hector’s speech to the local FE college and to Graham, under the headline “Grammar School Head attacks teaching of law at Eastlands”. (6 marks)

**Total for this question: 12 marks**

2

A valid will must be in writing, signed and properly witnessed by two competent witnesses. A will can be revoked in a number of ways, including destruction, writing a new will, and marriage. In addition, divorce can also affect the ex-spouse’s status under the will.

Under the provisions of the Inheritance (Provision for Family and Dependents) Act 1975, certain groups are entitled to make a claim against the estate, irrespective of the terms of the will or the statutory distribution under the intestacy rules.

In **each** of the following situations, discuss the **validity** of the will, and briefly discuss how the testator’s estate may be **distributed**.

- (a) Ike wrote his will on the back page of his stamp album because he did not have any other paper to write on. He signed it on the opposite page because he had run out of space and then asked Jon and Kelly, his nephew and niece, to sign as witnesses. In his will, Ike left his stamp album to Jon, his wedding ring to his ex-wife, Naomi, with the rest of his estate going to his daughter, Leah. Ike left nothing in his will to his son, Mal, who had left home 15 years previously and who had not been in touch with his father for the last 10 years. Ike has since died. (6 marks)
- (b) Otto, an old man who lived alone, wrote and then signed his will leaving everything to Patsy, his home help. Otto then went next door to Rosy’s house, where Rosy and her 15-year-old step-daughter, Sandra, and her 18-year-old blind daughter, Terri, also signed as witnesses. Otto died shortly afterwards. Amongst his possessions were found his new will and also an old will made in favour of his first wife, Ulrica, whom Otto had since divorced. (6 marks)

**Turn over ►**

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**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.

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**Total for this question: 40 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.

(a) Explain, in outline, what is meant by the following:

- common law actions
- probate
- family-based cases.

*(5 marks)*

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- (b) (i) Name the Act of Parliament which created the three-track procedure for civil actions. *(1 mark)*
- (ii) Describe the key features of the Fast Track procedure. *(4 marks)*
- (iii) Briefly comment on the advantages of this procedure. *(3 marks)*
- (c) **Not** including training, outline **two** of the traditional differences between solicitors and barristers. *(4 marks)*
- (d) Describe the ‘specialist training’ which must be undertaken by the following:
- (i) a would-be solicitor;
- (ii) a would-be barrister. *(6 marks)*
- (e) With reference to the legal profession, explain what is meant by **QC**, and how such an appointment is made. *(3 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). *(5 marks)*
- (h) Outline how a client may qualify for Legal Representation in a civil case. *(3 marks)*
- (i) Briefly explain what is meant by a ‘conditional fee arrangement’. *(2 marks)*

**Turn over for the next question**

**Turn over ►**

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**Total for this question: 40 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 commit your time and give your expertise voluntarily.

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 consider 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).

Explain the major differences between them. (4 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) Explain the **procedural** difference between cases of ‘minor theft’ and those of the large majority of ‘motoring offences’. *(3 marks)*
- (ii) Briefly explain the type of work involved in cases concerning the following:
- ‘families and children’
  - ‘young people’. *(4 marks)*
- (d) Explain how magistrates decide on an appropriate ‘sentence’ following a plea or verdict of guilty. *(4 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 **three** groups of people who may be **disqualified** from jury service. *(3 marks)*
- (iii) Briefly describe how a jury is selected in court. *(3 marks)*
- (g) (i) Identify **two** types of **civil** case where a jury may be required to sit. *(2 marks)*
- (ii) Briefly describe **one** problem of using juries in civil 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 ►**

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**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.

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**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**

Alex, aged 17, borrowed £1000 from Bernie, his father, in order to buy a car and agreed to repay the money over the next year. However, he then spent £500 on an engagement ring for his girlfriend, Carol.

Alex then borrowed, at a very high rate of interest, another £300 from Dougal, a moneylender, so he could put a £750 deposit on a car.

He bought the car privately from Elton and agreed to make repayments of £125 a month for the next 18 months to Financings Ltd (F), a loan company. Alex told Elton and Financings Ltd that he was over the age of 18.

Alex, who was still 17, then lost his job and could not afford any of the repayments to Bernie, Dougal and Financings Ltd. Two weeks after Alex took possession of the car, the engine seized, and effectively the car is now a 'write-off' and cannot be used. Shortly afterwards, Carol broke off their engagement and has refused to return the engagement ring.

- (a) Explain the legal position in respect of an agreement entered into between family members. *(4 marks)*
- (b) With reference to the engagement ring, discuss the following:
- (i) taking into account Alex's age, whether the purchase of the ring would amount to a valid contract; *(5 marks)*
  - (ii) whether or not Alex could legally recover the ring from Carol. *(3 marks)*



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- (c) Discuss the legal position regarding the loans from Dougal and Financings Ltd to Alex:
- (i) whilst Alex remains a minor;
  - (ii) after Alex's eighteenth birthday. *(6 marks)*
- (d) With reference to the car bought by Alex from Elton, discuss the following:
- (i) Alex's contractual rights, taking into account the fact that the engine seized only two weeks after the car was bought;
  - (ii) how the legal position might have been different if Alex had bought the same car from a car dealer. *(6 marks)*
- (e) If Alex 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 ►**

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**Total for this question: 30 marks**

## 6 Tort

The tort of trespass can take three different forms:

- trespass to land, which itself can occur in 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**

Gerwyn is a sheep farmer in an isolated area. The area had recently been targeted by criminal gangs who had been entering the land and using it for illegal hare-coursing. There had been several break-ins in the locality, and a quiet corner of Gerwyn's farm had also been used for the illegal dumping of rubbish (fly-tipping). Gerwyn, who was worried for his safety and security, took to keeping a loaded shotgun with him at all times.

Early one morning, Gerwyn heard a lot of activity going on in one corner of his farm and went to investigate. He saw a group of men and dogs, apparently about to engage in an illegal hare-coursing event. One of the men, Huw, threatened Gerwyn and told him to leave "or else". Gerwyn responded by firing his shotgun in the air just over the men's heads. Unfortunately, one of the pellets ricocheted off a tree and hit Ivor, one of the other men, in the eye. While the men were distracted by Ivor's injury, Gerwyn grabbed Jenkin, one of the group of men, and forced him to drive Jenkin's Range Rover back to the farmhouse. Gerwyn then locked Jenkin in an outhouse and hid the Range 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 hare-coursing on Gerwyn's farm;
  - (ii) the fly-tipping on Gerwyn's farm;
  - (iii) the threats made by Huw to Gerwyn. *(8 marks)*
- (b) Ivor is also considering suing Gerwyn in tort. Consider his chances of success, taking into account any defence(s) which Gerwyn may be able to plead. *(8 marks)*

- (c) Consider which form(s) of trespass may have been committed by Gerwyn with respect to the following:
- (i) Gerwyn's forcing Jenkin to drive him to the farmhouse and locking Jenkin in the outhouse;
  - (ii) Gerwyn's taking and hiding the Range Rover. *(8 marks)*
- (d) (i) Identify any **two** remedies which may be appropriate in a trespass case. *(2 marks)*
- (ii) Discuss the effectiveness of the remedies available in a trespass case. *(4 marks)*

**Turn over for the next question**

**Turn over ►**

**Total for this question: 30 marks**

## 7 Criminal Law

There is a range of offences under the Theft Acts 1968 and 1978. These include theft, robbery, burglary and making off without payment.

There is also a range of 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

Ken and his friends, Les, Mike and Nick, decided to go into town for a night out. Early in the evening, they were thrown out of the 'Rovers Return' public house after Ken threatened to 'sort out' the landlord, Ogden. After drinking in several more pubs, they decided to head for a nightclub. As they left the 'Flying Horse' public house, Les grabbed a packet of crisps that was lying on a table.

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

Arriving at the nightclub, they were all refused entry by Rashid, the doorman, because they were all obviously drunk. A fight broke out, mainly between Ken and Rashid, during which Ken suffered a black eye. Rashid suffered a fractured skull when Ken hit him on the head with an advertising board. Sally, an innocent bystander, was pushed to the ground by Ken and broke a small bone in her wrist.

- (a) Ignoring any potential defence(s), discuss Ken's criminal liability as a result of the following:
- (i) the threats made towards Ogden;
  - (ii) the injury suffered by Rashid;
  - (iii) the injury suffered by Sally. *(8 marks)*
- (b) Identify and discuss any relevant defence(s) that Ken may be able to plead with respect to the above incidents. *(4 marks)*
- (c) Consider Les's criminal liability for offences under the Theft Act 1968 with respect to the packet of crisps. *(5 marks)*

- (d) Consider Mike's criminal liability for the incident with Penny 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 sentences. Identify and discuss the various aggravating factors in the incidents described above. *(6 marks)*

**Turn over for the next question**

**Turn over ►**

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**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 first.

### **The Problem**

Trudy 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 Trudy and you, a work experience pupil from the local school, are in the office. However, Trudy knows that you are studying law and approaches you for advice with respect to the following.

- Una, a local girl, and Vikram are in the reception area asking for a marriage licence. Vikram's passport indicates that he only entered the country two days ago.
- Warren and Yvette are also in reception asking for a marriage licence. Trudy is worried because Yvette looks rather young and is wearing school uniform.
- Trudy has received a telephone enquiry from Zoe, asking about the law in relation to witnesses, permitted times of marriage and possible marriage venues. She has asked you to ring back with the proper advice.
- At lunchtime, Trudy confides in you that she and her husband, Andy, are having marital problems and that she needs some advice about a divorce. Trudy has a leaflet from the Citizens Advice Bureau (CAB), but clearly does not understand some of the terms in the leaflet.

- (a) Identify and briefly discuss the legal issue(s) relating to the intended marriage of Una and Vikram. *(4 marks)*
- (b) Explain to Trudy the legal requirements relating to age and marriage, and the potential consequences for Warren and Yvette if these requirements are not met. *(5 marks)*
- (c) Describe the relevant law on marriage, relating to witnesses, permitted times and legal venues, that you will need to explain to Zoe when you return her call. *(6 marks)*

(d) In relation to the law on divorce, explain to Trudy the legal meaning of the following terms which she has read in her leaflet:

(i) 'irretrievable breakdown', and how it can be proved;

(ii) *decree nisi* and *decree absolute*;

(iii) 'maintenance';

(iv) 'mediation'.

(10 marks)

(e) 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**