



GCE A level

1254/02

LAW – LA4

**UNIT 4: UNDERSTANDING LAW IN CONTEXT:
FREEDOM, THE STATE AND THE INDIVIDUAL
OPTION 2: CRIMINAL LAW AND JUSTICE**

A.M. FRIDAY, 22 June 2012

2½ hours

ADDITIONAL MATERIALS

In addition to this examination paper, you will need a 12 page answer book.

INSTRUCTIONS TO CANDIDATES

Use black ink or black ball-point pen.

Answer **two** questions from Section A and **one** question from Section B.

INFORMATION FOR CANDIDATES

Each question carries 25 marks.

The number of marks is given in brackets at the end of each question or part-question.

You are reminded that assessment will take into account the quality of written communication used in your answers.

You are reminded that this paper contains a synoptic element in Section B and will test understanding of the connections between the different elements of the subject.

UNIT 4: UNDERSTANDING LAW IN CONTEXT

OPTION 2: CRIMINAL LAW AND JUSTICE

SECTION A

Answer two questions from this section.

1. “The Crown Prosecution Service is now fulfilling the role which was originally intended for it.” Discuss. [25]

2. To what extent do the courts accept that circumstances of necessity can provide a defence to a criminal charge? [25]

3. To what extent is the presumption in favour of a right to bail offset by rules which allow bail to be refused in appropriate circumstances? [25]

4. “The law relating to insanity and automatism is in serious need of reform.” Discuss. [25]

SECTION B

Answer one question from this section.

5. Study the text below and answer the questions based on it.

“The Law Commission considered a suggestion that the presumption in favour of mens rea should be displaceable only by an express provision requiring some fault other than recklessness, or stating that no fault is required. But, said the Commission, ‘We do not think that this would be appropriate. We are mindful of the “constitutional platitude” pointed out by Lord Ackner in Hunt [1987]AC 352 at 380, that the courts must give effect to what Parliament has provided not only “expressly” but also by “necessary implication”. If the terms of a future enactment creating an offence plainly implied an intention to displace the presumption . . . the courts would no doubt feel obliged to give effect to that intention.’ ”

- (a) Explain when, according to Lord Scarman in *Gammon Ltd v A-G of Hong Kong*, the presumption in favour of mens rea can be displaced in favour of a presumption that Parliament intends an offence to be one of strict liability. [11]
- (b) Evaluate the approaches to statutory interpretation used by the courts in England and Wales. [14]

6. Study the text below and answer the questions based on it.

“Consistency in sentencing is vital, but so is a measure of discretion. Judges and magistrates must take account of the difference in gravity between offences which fall within the same broad category. Just as importantly, they must take account of the culpability of the individual offender. The present sentencing guidelines aim to preserve the necessary element of discretion while at the same time ensuring that the same approach to sentencing is maintained throughout the courts in England and Wales.”

- (a) Explain the use of guidelines in the sentencing of adult offenders. [11]
- (b) Evaluate the importance of the Rule of Law. [14]