



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 3 – CRIMINAL LAW

Time allowed: 3 hours plus 15 minutes reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read the question paper fully.** However, you may make notes on the question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. The question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Criminal Law 2012 – 13, 22nd Edition, Peter Glazebrook, Oxford University Press, August 2012.**
- Candidates must comply with the CILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ball point pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

SECTION A
(Answer at least one question from this section)

1. The *Ghosh* (1982) test for dishonesty is flawed, and the definition of dishonesty should be a matter of law for the judge.

Critically evaluate the above statement in relation to the offence of theft.

(25 marks)

2. The meaning and scope of the defence of insanity is in urgent need of legislative overhaul.

Critically evaluate the above statement.

(25 marks)

3. (a) Critically analyse the circumstances in which a mistake will relieve a defendant of criminal liability.

(15 marks)

- (b) Has s76 of the Criminal Justice and Immigration Act 2008 clarified and improved the law on self defence?

(10 marks)

(Total: 25 marks)

4. It has been argued that constructive (unlawful act) manslaughter should be abolished, as it seems unjust that a person could be convicted of constructive manslaughter based on a different, and sometimes far less serious, offence such as common assault.

Critically evaluate the above statement.

(25 marks)

SECTION B
(Answer at least one question from this section)

Question 1

Whilst her fiancé Andrew was at work, Fatima filled out an application form for a joint mortgage that they were taking out together for their new home. One of the questions asked whether the applicant/s had any outstanding loans or credit cards. Fatima thought that Andrew might have a personal loan but was unable to speak to him before completing the application, so she answered 'no' for both of them. Andrew had, in fact, taken out a loan for £15,000 a few months earlier to pay off his credit cards and buy a new car.

After she had completed the application form, Fatima decided to go into town and hand deliver the application to the bank. Fatima needed to withdraw money from a cashpoint machine and, when she opened her purse, she realised that she had Andrew's cashpoint card with her so she used it to withdraw cash from his bank account instead of withdrawing money from her own bank account. She did not think he would mind because in the past he had given her permission to use his cashpoint card.

Whilst in town, Fatima saw a very expensive handbag that she liked. She could not afford to buy it, so she decided to pay for it using cash which she had in her bag to pay in to the bank. The cash belonged to the Ocean View Yacht Club. As Treasurer of the club she is entrusted with dealing with the club's finances.

When Fatima was walking home, she noticed a wallet on the pavement. She picked it up and saw that it contained a free bus pass. As there was no photo on the pass, and the name on the pass was female, she decided to use it to catch the bus home.

Discuss Fatima's criminal liability for any offences committed other than theft.

(25 marks)

Turn over

Question 2

Hamit, Barry and Sam were on the upper floor of a nightclub. Hamit looked over the balcony to the dance floor below and saw Rocky, a local drug dealer with a formidable reputation for getting what is owed to him.

Hamit owed Rocky £5,000 and did not want Rocky to see him. Hamit asked Barry to create a diversion by pretending to throw Sam over the balcony so that Hamit could leave via the emergency exit. Barry and Sam were both quite drunk and agreed to do as Hamit asked. When Barry picked Sam up, Sam threw out her arms dramatically in order to attract the attention of the people around her.

In throwing out her arms Sam hit a plant pot and it fell off the balcony to the floor below hitting Lynne on the head and knocking her out. When Barry and Sam saw what had happened, they decided to leave the club immediately. Barry managed to get away but the doormen stopped Sam from leaving the club and she was taken to the manager's office to await the arrival of the police.

Barry found Hamit outside. The police and an ambulance arrived and both Sam and Lynne were taken away. Barry suggested to Hamit that they should go to the police station and tell them what happened. Hamit refused to go. Barry raised his fist at Hamit and threatened to 'knock him out' and drag him to the police station. He grabbed Hamit by the arm but Hamit punched Barry in the face causing him to lose his footing and fall over. Hamit ran off.

Lynne suffered a fractured skull and had a deep laceration to her scalp which required stitching. Hamit had no visible injuries. Barry suffered a black eye and a dislocated elbow.

(a) Consider Sam's criminal liability and any defences that could be available to her;

(12 marks)

(b) Consider Barry's criminal liability; and

(7 marks)

(c) Consider Hamit's criminal liability.

(6 marks)

You are not required to consider the defences available to Barry and Hamit.

(Total: 25 marks)

Question 3

Jenni is 16 years old and over the past few months has started smoking and drinking with her friends. Recently, whilst at her grandmother's flat, she took £10 from her grandmother's purse to pay for cigarettes and alcohol. Her brother Simon, saw her take the money and threatened to tell their father if she did not burgle their grandmother's ground floor flat later that night when their grandmother was asleep.

Jenni was terrified of her father and agreed to do it. She went back to the flat later that night and prised open the bathroom window, which was not secured properly. Jenni was just about to climb in through the window when she heard her grandmother approaching. She shut the window and went home.

When Jenni told Simon that she not been able to carry out the burglary, Simon was furious and threatened her with a knife. He told her that he would slash her with the knife if she did not return with him to the flat and carry out the burglary. They both went back to the flat and Jenni gained entry through the bathroom window whilst Simon waited outside. Once inside she found her grandmother's old biscuit tin where she knew she kept her money. She took the money out of the tin, left the flat and gave it to Simon.

Discuss Jenni's criminal liability and any defences that could be available to her.

(25 marks)

Turn over

Question 4

Ben and Daisy are 21 year old twins. Ben has cared for Daisy for the last 10 years after she was involved in a car crash in which their parents were killed and Ben suffered a serious head injury, which has left her with brain damage.

Ben doesn't like Daisy going out alone as the local teenagers are cruel to her, they taunt her and she often returns upset. One day Ben returned from the shops to find Daisy crying in the garden. She told Ben that two of the local teenagers, Ivan and Josh, had come into the garden whilst she was picking flowers. After being verbally abusive to her, Ivan had pushed her, causing her to fall over and hurt her wrist.

Ben was furious and went in search of Ivan and Josh. He found them in a local park. As Ben approached them, Ivan was sitting on his bike smirking at him. When Ben reached them he did not say anything, he just removed a small kitchen knife from his pocket and slashed the tyres on Ivan's bike. Ivan jumped off his bike and remonstrated with Ben who had turned around and was walking away. Ben heard footsteps approaching him from behind and thought that Ivan was going to attack him. He turned around and stabbed Ivan a number of times with the kitchen knife before continuing to walk away.

Ivan died from his wounds.

Discuss Ben's criminal liability and any defences that could be available to him.

(25 marks)

End of Examination Paper

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