

General Certificate of Education
January 2004
Advanced Level Examination



LAW
Unit 5

LAW5

Monday 19 January 2004 Morning Session

In addition to this paper you will require:
a 12-page answer book.

Time allowed: 1 hour 15 minutes

Instructions

- Σ Use blue or black ink or ball-point pen.
- Σ Write the information required on the front of your answer book. The *Examining Body* for this paper is AQA. The *Paper Reference* is LAW5.
- Σ Answer **one** question from two on the theme you have studied for this unit.
- Σ Do all rough work in the answer book. Cross through any work you do not want marked.
- Σ Use continuous prose. Give reasoned answers. Where appropriate, make reference to authority.

Information

- Σ The maximum mark for this paper is 85.
- Σ Mark allocations are shown in brackets.
- Σ You will be awarded up to 10 marks for the quality of your written communication. You will be assessed on your ability to use an appropriate form and style of writing, to organise relevant information clearly and coherently, and to use specialist vocabulary, where appropriate. The degree of legibility of your handwriting and the level of accuracy of your spelling, punctuation and grammar will also be taken into account.

Answer **one** question from two on the theme you have studied for this unit.

Use continuous prose. 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)

1

Total for this question: 75 marks

Ann, a passionate believer in vegetarianism and the rights of animals, went into Broxo Supermarket and injected a strong but harmless dye into meat displayed at a counter. As a result, the meat could no longer be sold to the public but was available for use as animal feed. She then gathered up all the free leaflets giving information on how to prepare various meat dishes. She was observed doing this on CCTV by Colin, one of the security staff. When Colin intercepted Ann on her way out and tried to suggest that she should not take all the leaflets, Ann stamped on his foot and then ran off before he could recover.

- (a) Discuss Ann's criminal liability for a range of property offences arising out of her visit to Broxo Supermarket and the injection of the dye. *(25 marks)*
- (b) Discuss Ann's criminal liability for a range of property offences arising out of the subsequent incidents in Broxo Supermarket involving the leaflets and Colin. *(25 marks)*
- (c) Consider whether there are any reasons for suggesting that the offence of theft is currently in need of reform. *(25 marks)*

2

Total for this question: 75 marks

Doug was a petty thief in debt to Eddie, the leader of a violent gang. Eddie told Doug that the gang would break his legs if he did not pay within a week. Eddie suggested that Doug should get the money from Frank, on whom the gang wanted revenge. Having obtained Frank's debit card security number, Doug followed him into a building and stealthily removed the debit card from Frank's wallet. He then used the card to withdraw cash from a number of bank machines and paid Eddie with the money.

Doug then went into a bar and got very drunk. Whilst in that condition, he entered a cinema and watched a film for a short time before walking out without paying, used Frank's debit card to buy some food in a shop but signed in his own name (which the bored assistant did not notice) and broke the glass on traffic lights when trying to hit a passing motorcyclist with a stone.

- (a) Discuss Doug's criminal liability in connection with the incidents involving the obtaining of the debit card and its use to withdraw cash from the machines. *(25 marks)*
- (b) Discuss Doug's criminal liability in connection with the incidents which occurred after he got drunk in the bar. *(25 marks)*
- (c) Explain and evaluate possible criticisms of any **one** property offence which you have considered in your answers to (a) and (b) above. *(25 marks)*

TURN OVER FOR THE NEXT QUESTION

Turn over ►

Tort**3****Total for this question: 75 marks**

An article in the IT pages of the *Herald*, a national newspaper, described and recommended Safestore, a security software package. After reading the article, Gordon bought a copy of Safestore and installed it on his computer's hard disk, hoping to protect his clients' confidential business information. In fact, the article had failed to explain that the version of Safestore on public sale was less comprehensive than the version reviewed. Gordon's security was breached two months later whilst he was online. In consequence, he had to pay a total of £30 000 to clients affected by the breach and he stopped receiving orders for his services.

Gordon engaged Ian to repair damage to a wall in his house. Whilst doing so, Ian cut through an electricity cable and fused the power supply. Gordon was out, so Ian opened the locked door to the cellar with a key hanging from a nail on a nearby wall. As he went down the cellar stairs to find the electricity unit, a rotten stair gave way under his weight and he fell, breaking his leg and ripping his clothes.

- (a) Gordon has now discovered that the manufacturer of Safestore has ceased to trade. Consider what rights Gordon may have against the *Herald* in connection with the £30 000 he had to pay out and his loss of business. *(25 marks)*
- (b) Consider what rights Ian may have against Gordon in connection with his broken leg and his ripped clothes. *(25 marks)*
- (c) Write a critical account of the circumstances in which vicarious liability is imposed, and discuss the reasons why it should be. *(25 marks)*

4

Total for this question: 75 marks

Residents living in the vicinity of the Johnsons factory had been complaining for some time of noise and vibration coming from the factory, especially at night. When an explosion occurred in the factory one morning, a thick cloud of smoke spread rapidly across the town, leaving a dirty, oily deposit on houses and other buildings.

The cloud of smoke caused Kevin to lose control of his bicycle as he was riding down a steep hill in the town. He crashed into railings with sharp spikes and was unable to free himself when one of the spikes went into his neck. The incident was witnessed by Larry, who narrowly avoided being struck by the bicycle. Mike heard Larry's screams for help and ran over to support Kevin's weight whilst Larry called the emergency services. Kevin only just survived and was left with a large scar and restricted movement. Both Larry and Mike had to have prolonged treatment to enable them to recover from the psychological effects of the experience.

- (a) Consider what rights and indicate what remedies residents of houses affected by the noise, vibration and explosion may have against Johnsons. *(25 marks)*
- (b) Consider what rights and indicate what remedies Kevin, Larry and Mike may have against Johnsons. *(25 marks)*
- (c) Write a critical account of how and why judges have restricted liability for pure economic loss and nervous shock. *(25 marks)*

TURN OVER FOR THE NEXT QUESTION

Turn over ►

Protection of Human Rights**5****Total for this question: 75 marks**

Nell interviewed Paul, a prominent businessman, whilst carrying out a market research survey and rapidly became infatuated with him. She used information gathered in the survey to follow him about, make telephone calls and send letters to him at work. At first, he was flattered by her interest, but then became increasingly alarmed by the extent of her knowledge of his finances and of his work and social life. In particular, he was embarrassed by her tendency to appear at various work and social events and behave in an outrageous manner.

Some time after he had told her that she must leave him alone, he was dismayed to read an article in the *Daily Recorder*, a national newspaper, headed, "Love rat broke my heart", in which he was alleged to have pursued her vigorously, broken up her marriage and then simply dropped her. The *Daily Recorder* promised more revelations about Paul's "crooked business and seedy personal life".

- (a) Ignoring the provisions of the Human Rights Act 1998 and of the European Convention on Human Rights, discuss what rights Paul may have against Nell and the *Daily Recorder*.
(25 marks)
- (b) Consider how your answer to part (a) above is affected by the provisions of the Human Rights Act 1998 and the European Convention on Human Rights.
(25 marks)
- (c) Discuss the proposition that English law currently fails to provide adequate protection for privacy. Include in your answer a discussion of the Human Rights Act 1998 and the European Convention on Human Rights.
(25 marks)

6

Total for this question: 75 marks

Steve was the leader of an anti-capitalist rock band with a small but passionate and violent group of followers. They attended a free concert given by the band in the grounds of a large house owned by Ted, a fan and sympathiser. Also present were other members of the public, as well as a number of police officers. During the performance of a song which encouraged the destruction of commercial property, fights broke out between a group of about 20 of the band's fans and other members of the public. The police stopped the concert from continuing and arrested various people.

Following the concert, police officers conducted electronic and other forms of surveillance to discover whether Steve was involved in any undesirable activities. They also learned that the band was due to appear at an anti-capitalist rally, consisting of a march through the wealthy business area of the town and ending with a rock concert in private grounds. They were concerned about possible personal injury, the carrying of weapons and damage to property that might accompany the rally.

- (a) Ignoring the provisions of the Human Rights Act 1998 and of the European Convention on Human Rights, consider the application of English law to the events at the concert, the police surveillance and the possible actions open to the police in connection with the forthcoming rally. *(25 marks)*
- (b) Consider how your answer to part (a) above is affected by the provisions of the Human Rights Act 1998 and the European Convention on Human Rights. *(25 marks)*
- (c) Discuss the way in which English law deals with the relationship between the interest in preserving public order and the interest in protecting freedom of expression. Include in your answer a discussion of the Human Rights Act 1998 and the European Convention on Human Rights. *(25 marks)*

TURN OVER FOR THE NEXT QUESTION

Turn over ►

Consumer Protection

7

Total for this question: 75 marks

Victor ordered a new car from Wellbus as a birthday present for his daughter, Amelia. The model was advertised with 15% discount for cash, though Victor later discovered that a similar deal was available for credit purchases. When it was delivered, the seats were of a different colour from that which Victor had ordered. When Victor complained, Wellbus installed new seats of the desired colour but of a different style.

On three occasions over the next two months, the engine cut out unpredictably whilst Amelia was driving the car, but Wellbus could find nothing wrong with it. When it cut out a fourth time, Amelia was driving in fast-moving traffic and the car was struck from the side by another car, resulting in injuries to her passenger, Ben. Careful examination by the manufacturer, Cordon Cars, revealed a general fault in a component vital to the operation of the engine.

- (a) Discuss the criminal **and** civil law obligations of Wellbus in connection with the advertising and sale of the car, and consider Victor's rights and remedies. *(25 marks)*
- (b) Discuss the rights and remedies of Amelia and Ben against Wellbus and Cordon Cars. *(25 marks)*
- (c) How satisfactory is the protection provided for consumers by the combination of civil **and** criminal law rules, including remedies and sanctions? *(25 marks)*

8

Total for this question: 75 marks

Dragon Co advertised in the national press, “Outstanding offer! Sign up for our internet service by March and we will send you a free state-of-the-art digital camera and £100 worth of computer games.” Ellen signed up for the service in January, but had to pay an “administration” charge of £30 to obtain the camera. When she received it, she found that it was an early model which produced poor quality images. She had still not received any computer games by the end of March.

Ellen attended a reunion of old school friends, who were unlikely ever to have the opportunity to get together again. She took a large number of photographs of herself and her friends and took them to be developed by Fotostore. The receipt for her roll of film contained a statement that Fotostore would be liable only for the cost of the film in the event of any loss or damage. When Ellen went to collect the photographs, she found that half were missing and many of the others had been badly damaged in processing.

- (a) Discuss Ellen’s rights and remedies against Dragon Co in connection with the digital camera and the computer games. *(25 marks)*
- (b) Discuss Ellen’s rights and remedies against Fotostore in connection with the photographs. *(25 marks)*
- (c) Consider whether the consumer is adequately protected by the rules of law which seek to control exclusion or limitation clauses. *(25 marks)*

END OF QUESTIONS