

General Certificate of Education
June 2003
Advanced Level Examination



LAW
Unit 5

LAW5

Friday 13 June 2003 Afternoon Session

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

Time allowed: 1 hour 15 minutes

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 LAW5.
- Answer **one** question from two on the theme you have studied for this unit.
- Do all rough work in the answer book. Cross through any work you do not want marked.
- Use continuous prose. Give reasoned answers. Where appropriate, make reference to authority.

Information

- The maximum mark for this paper is 85.
- Mark allocations are shown in brackets.
- 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

After drinking beer all afternoon in a bar in town, Andy wandered into the local cinema and joined a queue in the foyer to buy a soft drink. When Andy was served, the assistant assumed that he was with another customer who was paying for drinks, and Andy walked off with his drink without paying for it. He then bought a ticket to watch a film which contained notorious sex scenes, intending to create a disturbance as a protest against them. After the film had been showing for a few minutes, he hurled his carton of drink towards the front of the cinema, causing it to burst and soak cinema seats and the clothing of customers. During a row which followed, Andy violently pushed Bob, another customer, who was trying to restrain him. Bob broke his arm when he fell awkwardly.

- (a) Discuss Andy's criminal liability arising out of the way in which he got the soft drink. *(25 marks)*
- (b) Discuss Andy's criminal liability for **property** offences arising out of the subsequent incidents in the cinema. *(25 marks)*
- (c) How far would you agree that there have been few problems with the interpretation of the property offences contained in the Theft Acts 1968 and 1978? *(25 marks)*

2

Total for this question: 75 marks

Cherreem dismissed David from his employment without notice and without paying him for work that he had done. David was very angry about this so, the day after he left work, he returned on the excuse of collecting some possessions and photocopied important information about Cherreem's business, intending to sell it to one of Cherreem's rivals. As David was leaving the building, he pushed over a security guard who was trying to see what documents David had with him.

Emma worked in Cherreem's finance department and had authority to sign cheques drawn on Cherreem's account. David told her that if she did not write out a cheque payable to him for the amount he believed that Cherreem owed him, he would make sure that she never saw her children again. Emma was a very timid person and was so frightened that she gave David a cheque for £500. In a final act of revenge, David removed the light bulbs from the rear lights of Cherreem's car and then threw them into Cherreem's bin.

- (a) Discuss David's criminal liability in connection with the incidents involving his return to Cherreem's premises to photocopy the information. (25 marks)
- (b) Discuss **Emma's** criminal liability in connection with the cheque for £500, and David's criminal liability in connection with the removal and throwing away of the light bulbs. (25 marks)
- (c) Analyse critically **either** the *actus reus* **or** the *mens rea* of the offence of theft. (25 marks)

TURN OVER FOR THE NEXT QUESTION

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

Six months ago, a new block of flats was built on previously disused land close to Frank's car sales and repair business. Residents in the flats soon began to complain about the noise and pollution from Frank's premises, and about the fact that complaints seemed only to result in more noise. Additionally, the residents claimed that fumes from the paint-shop forced them to keep windows closed and that, on one occasion, their windows were coated with a fine film of paint after some kind of explosion in the paint-shop. Frank indicated that the explosion was caused by vandalism.

A year after Gita bought a new car, the manufacturer announced that the paint finish on certain models of that car would not maintain its desired appearance. The manufacturer offered, for three months, to fund the cost of a re-spray. The retailer from whom Gita bought her car was no longer in business and so she took her car to Frank. Frank asked Henry to find out whether Gita's model of car was affected. Henry consulted the manufacturer's list and decided that Gita's model was not affected. However, he had not realised that there was a more recent, amended list which did include Gita's model. By the time that the mistake was discovered, the manufacturer's offer had ended and Gita's car was worth £2000 less than it should have been.

- (a) Consider what rights and indicate what remedies the residents may have against Frank. *(25 marks)*
- (b) Consider what rights Gita may have against Frank. *(25 marks)*
- (c) Discuss the suggestion that the English law of tort has failed to ensure that claimants have adequate rights to compensation for economic loss. *(25 marks)*

4

Total for this question: 75 marks

Javed owned a warehouse with an open yard surrounded by a low wall. For years, the yard was little used and members of the public treated it as a short cut from a main road to a housing estate. Then, Javed began to store materials in the yard and put up light fencing and signs warning that the yard was private property. Recently, the signs have been torn down, gaps in the fencing have appeared and members of the public, including Ken, have been using the yard as a short cut again. Ken was crossing the yard whilst Les, an inexperienced fork-lift truck driver, was trying to stack heavy crates. As Ken tried to slip through a narrow gap, the stack of crates toppled over and he was crushed and badly injured.

Mike had been assisting Les and had narrowly avoided being crushed himself. He immediately got down on the ground and tried to assist Ken. The incident was witnessed by Mike's sister, Nicola, who had come to collect him from work. She could just glimpse Mike's legs and thought that he had been crushed in the incident. She immediately became hysterical and was taken away for treatment. Mike found it difficult to recover from the experience and was off work for weeks. Nicola suffered panic attacks for the next few months.

- (a) Consider what rights and indicate what remedy Ken may have against Javed. *(25 marks)*
- (b) Consider what rights Mike and Nicola may have against Javed. *(25 marks)*
- (c) Discuss the suggestion that the English law of tort has developed in such a way as to ensure that claimants have appropriate rights to compensation for psychiatric injury. *(25 marks)*

TURN OVER FOR THE NEXT QUESTION

Protection of Human Rights

5

Total for this question: 75 marks

Pat was a very popular singer who had gained much sympathy over the years for the way in which she had overcome the disadvantages of being orphaned at an early age and having grown up in very deprived circumstances. The story of her early years was given added impact by the slight air of mystery which surrounded the precise details.

Recently, Pat began to confide in a new friend, Oliver, that she had invented most of the story. In truth, she had grown up in a happy and stable family and her mother, though now unwell, was still alive. Pat had changed her name, cut herself off from her family, and never visited her mother. Oliver revealed this information for £5000 to the *Morning News*, a national newspaper. The *Morning News* proposed to make intensive enquiries into Pat's background and the current lifestyle of Pat's mother.

When rumours of this story emerged, large numbers of members of Pat's fan club picketed the offices of the *Morning News* to protest about the newspaper's activities. Anyone entering or leaving the building was subjected to verbal abuse, fights broke out, and property was damaged.

- (a) Considering both English law and the law of the European Convention on Human Rights, discuss what rights Pat may have against Oliver, and what rights Pat and her mother may have to stop further enquiries and revelations being made. (25 marks)
- (b) Explain, and discuss the application of, rules of English law and the law of the European Convention on Human Rights in relation to the incidents which occurred at the premises of the *Morning News*. (25 marks)
- (c) Discuss the suggestion that English law correctly values the right to privacy above the right to freedom of expression. (25 marks)

6

Total for this question: 75 marks

During a televised debate, Sam, the secretary of an environmental group, accused Rudi, the owner of a company doing research into genetically modified food, of falsifying research findings so as to promote genetic modification. Sam's accusation was based on the misinterpretation of a document which he had secretly been given by one of Rudi's employees. Acting on this accusation, Tara was one of many people who visited Rudi's house, and sent him letters and made telephone calls threatening him and his family. Eventually, Rudi was forced to take his family into hiding.

Rudi's company premises subsequently became the focus of persistent protest by environmental groups, and there were recurrent incidents of intimidation, violence and vandalism. Initially, the police attempted to maintain a policy of limited intervention but became alarmed when, after listening in on Sam's telephone conversations, they realised that militant environmentalists from all over the country were planning to march to the site and make a determined effort to get the premises closed down.

- (a) Discuss Rudi's rights against Sam and consider the possible liability of persons such as Tara. Include in your answer a discussion of the effect of the Human Rights Act 1998 and of the European Convention on Human Rights. *(25 marks)*

- (b) In relation to the incidents at Rudi's company premises, discuss the legal issues concerning the gathering of information by the police, and consider what actions are open to the police to minimise the risks of violence and disorder arising out of the planned march. Include in your answer a discussion of the effect of the Human Rights Act 1998 and of the European Convention on Human Rights. *(25 marks)*

- (c) Discuss the suggestion that English law correctly values the right to freedom of expression above the need to preserve public order. *(25 marks)*

TURN OVER FOR THE NEXT QUESTION

Consumer Protection

7

Total for this question: 75 marks

Bridget booked a room with en-suite facilities for a week at the Cosynights Hotel for a total price of £300, and sent off a deposit of £50. She did not notice that the letter of confirmation of the booking which she received contained a statement providing that Cosynights Hotel would have the right to upgrade or downgrade the accommodation without adjustment of the price. When she arrived at the hotel, she was dismayed to find that, for two days, she was expected to use a room without a bathroom or shower. Instead, she booked into the only other available hotel, at a cost of £450 for the week.

Bridget had gone on holiday with her friend, Dianne. Both tended to burn very easily in the sun, so Bridget bought a very high protection sun cream from Enval Cosmetics, which she shared with Dianne. In fact, the cream was part of a batch of low protection cream, which had been incorrectly labelled by the manufacturer, Skinwell Ltd. Despite applying the cream in accordance with the instructions, both Bridget and Dianne suffered bad sunburn and had to stay indoors for three days of the holiday. Enval Cosmetics denied all responsibility and pointed to a statement on the bottle of cream, which said that no liability could be accepted for injury caused in the use of the cream.

- (a) Discuss Bridget's rights and remedies against Cosynights Hotel. *(25 marks)*
- (b) Discuss the rights and remedies of Bridget and Dianne in connection with the sunburn they suffered. *(25 marks)*
- (c) At present, the consumer is protected by a combination of civil and criminal law rules. Considering the extent of the protection supplied by each, discuss the suggestion that both are equally necessary to achieve adequate protection. *(25 marks)*

8

Total for this question: 75 marks

A big notice in the window of Waleed's Power Store stated: "Finest quality steel blades for your electric saw. Buy one, get one free!" Having been assured by Waleed that the blades would cut both natural wood and chipboard very cleanly, Vic bought one and got a second one free. When he used them at home, he ruined chipboard costing £40 because the steel blades were of inferior quality and capable of cutting only natural wood cleanly. He also discovered that another branch of Waleed's Power Store was selling a single blade for less than half the price that he had paid for two.

Vic engaged Alec to install a burglar alarm in his house for a price of £700. Before the work began, Alec left documents with Vic describing the proposed installation. A clause in tiny print at the very end of the document stated that, in the event of any failure in the system, Alec would be liable merely for the cost of repair or replacement. A week after the work was completed, burglars entered Vic's house through a rear window and stole uninsured jewellery worth £5000. Investigation of the alarm system revealed that incorrect wiring meant that entry through the rear window did not trigger the alarm.

- (a) Discuss the **civil** and **criminal** law obligations of Waleed's Power Store in connection with the advertising and sale of the steel blades, and consider Vic's rights and remedies. *(25 marks)*
- (b) Discuss Vic's rights and remedies against Alec in connection with the installation of the alarm system and the loss of the jewellery. Include in your discussion consideration of the effect of the final clause in the contract between Vic and Alec. *(25 marks)*
- (c) Incorporating in your answer an evaluation of the common law and statutory approach to the control of exclusion clauses, consider how satisfactory are the remedies available to a consumer whose rights have been broken in a contract for goods or services. *(25 marks)*

END OF QUESTIONS