

General Certificate of Education
June 2004
Advanced Level Examination



LAW
Unit 5

LAW5

Monday 21 June 2004 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

Andy was furious when Biggstore, a DIY store and garden centre, refused to replace faulty goods because he had lost his receipt. He immediately went through automatic doors into the garden centre, where he removed a bar code sticker from a plant and placed it on another plant, which cost £20 more. The cashier charged the cheaper price in accordance with the bar code and, by mistake, gave Andy £10 extra in change, which he spent later.

Whilst drinking from a bottle of whisky in Biggstore, Charles took a steel tape-measure from a shelf to measure some concrete blocks in the garden centre. Finding the calculations difficult, he put the tape-measure into his pocket. He then tried to reach some heavy plant pots stacked on higher shelves, even though a notice warned customers to seek help from staff. He disturbed the stack and many pots fell and broke, narrowly missing a small child walking by. As he ran out of Biggstore, Charles realised that he still had the tape-measure. He left it on a wall in a nearby car park.

- (a) Discuss Andy's criminal liability for a range of property offences arising out of his visit to Biggstore. (25 marks)
- (b) Discuss Charles's criminal liability for a range of property offences arising out of his visit to Biggstore. (25 marks)
- (c) Write a critical evaluation of **either** the *actus reus* **or** the *mens rea* of any **one** property offence of your choice. (25 marks)

2

Total for this question: 75 marks

David cycled into the countryside with his 12-year-old daughter, Ellie, who suddenly suffered serious breathing problems. Fred was passing in his car but, though he stopped, he refused to take David and Ellie to a hospital because he had an important appointment. Whilst Fred was standing holding the car door, David jumped in with Ellie and slammed the door shut, causing Fred to stumble and fall. David then drove Ellie to hospital, abandoning the car on yellow lines outside. The journey used a quarter of a tank of petrol.

David telephoned Gill, Ellie's mother, who rushed out of the house and summoned a taxi driven by Hussein. She had no idea whether she had any money as she got into the taxi but, on arrival, could find only £2 of the £6 fare. She threw the money onto the seat and ran into the hospital. Hussein pursued her into the hospital, ignoring a security check, but then collided with a trolley carrying an urgently required heart monitor machine. The machine fell from the trolley and was damaged. Fearing violence from the porter pushing the trolley, Hussein punched him and broke his jaw.

- (a) Discuss David's criminal liability for property offences arising out of the events involving Fred. *(25 marks)*
- (b) Discuss the criminal liability of Gill and of Hussein for a range of property offences arising out of the events following David's telephone call to Gill. *(25 marks)*
- (c) The Theft Act 1968 has been in force for over 35 years. Discuss the suggestion that there is an urgent need to redefine some of the major offences which it contains. *(25 marks)*

TURN OVER FOR THE NEXT QUESTION

Turn over ►

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

Previously a quiet lake overlooked by a few cottages, Greenwater has recently been developed by its owner, Highlife Sports, to provide extensive leisure facilities, including swimming and powerboating. In consequence, the owners of the cottages, including Irene, have experienced a large increase in noise, especially at weekends and during frequent competition weeks, when traffic and parking problems have also made it difficult for them to leave or return to their properties. Additionally, damage to a diesel oil storage tank owned by Highlife Sports resulted in a leak which caused extensive contamination of Irene's vegetable garden.

Some swimmers were in the habit of swimming beneath the surface in an area of Greenwater clearly marked out for powerboating only. Whilst doing so, Jim surfaced into the path of a powerboat being driven by Kellie. In the resulting collision, Jim suffered severe facial injuries and Kellie was knocked out of the boat and had her arm severed by the propeller. Kellie's friend, Laura, who was in another boat, dragged her out of the water to safety. The experience caused Laura deep emotional disturbance.

- (a) Consider what rights and remedies the owners of the cottages, including Irene, may have in connection with the noise and other problems caused by the leisure activities and the oil spillage. *(25 marks)*
- (b) Consider what rights and remedies Jim, Kellie and Laura may have against Highlife Sports. *(25 marks)*
- (c) Comparing the availability of compensation for physical injury with the availability of compensation for psychiatric injury, discuss the suggestion that the rules in the law of tort make it too difficult to get compensation for psychiatric injury. *(25 marks)*

4

Total for this question: 75 marks

Miko worked three days each week as a financial consultant in the National Bank. Her contract with the Bank forbade her from giving advice on any financial products other than those offered by the Bank. She was paid a commission on all sales that she succeeded in negotiating with clients. Whilst advising Neil, who had sought advice in the Bank, Miko recommended a financial product not offered by the Bank. Neil acted on the advice but lost a lot of money when the financial product proved totally unsuitable for his needs.

Entry to the National Bank's premises after closing hours to withdraw money from a machine could be obtained by use of a card and personal identification number. Owen gained entry for himself and his friend, Peter. Whilst Owen was withdrawing money, Peter, who was a little drunk, fell against electric wiring, which had recently been poorly installed by a contractor. The wiring circuit fused and started a fire, which severely burned Peter. Consequent disruption to the electricity supply in the area forced Roger to close his restaurant for the evening.

- (a) Consider what rights and remedies Neil may have against Miko and the National Bank. *(25 marks)*

- (b) Consider what rights and remedies may be available to Peter and Roger against the National Bank. *(25 marks)*

- (c) Comparing the availability of compensation for physical injury or damage with the availability of compensation for economic loss, discuss the suggestion that the rules in the law of tort make it too difficult to get compensation for economic loss. *(25 marks)*

TURN OVER FOR THE NEXT QUESTION

Turn over ►

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

Ted was the secretary of Stopcrops, a group opposed to the use of genetically modified (GM) crops. Pretending to be a supporter, Vicky, a newspaper reporter working for the *Daily Clarion*, became a member of the group and managed to make a secret search of the group's files. She misinterpreted certain information and became convinced that Ted was actually being bribed by commercial interests to oppose GM crops. The *Daily Clarion* proposed to publish "sensational revelations" about Ted and the bribery.

The police had been carefully monitoring the activities of Stopcrops and, though they had found no evidence of any wrongdoing, they were anxious to limit the group's opportunities to demonstrate against GM crops. They were also concerned about rumours that a violent group, which was in favour of GM crops, might be about to start disrupting Stopcrops' marches and demonstrations.

- (a) Considering both English law and the law of the European Convention on Human Rights, discuss what rights Ted may have against Vicky and the *Daily Clarion*. (25 marks)
- (b) Considering both English law and the law of the European Convention on Human Rights, discuss the rights of Stopcrops members, and the rights and powers of the police, in connection with any marches and demonstrations organised by Stopcrops. (25 marks)
- (c) Discuss the suggestion that English law has allowed concern for preserving public order to override the rights to freedom of expression and of assembly and association. 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)

6

Total for this question: 75 marks

William, the Director of the National Youth Programme, suspected that his wife was seeing another man. He engaged Adrian, a private detective, to make discreet enquiries on his behalf. In the course of using a wide variety of surveillance techniques, including electronic eavesdropping equipment, Adrian discovered evidence that indicated that William and his wife might have been guilty of child abuse in the past. Adrian sold the information to Barry, an investigative journalist, who revealed it during a news and current affairs broadcast on local radio.

Immediately, William was subjected to a “hate” campaign involving abusive letters and telephone calls and being followed and attacked in the street. William’s house was besieged by journalists and cameramen who made it almost impossible for him to leave his house. Some of the cameramen climbed trees in his garden and the downpipes on the walls of his house in order to try to take photographs.

- (a) Ignoring the European Convention on Human Rights, consider the application of English law to the conduct of Adrian and Barry, and to the events which followed the local radio broadcast. *(25 marks)*
- (b) Consider how, if at all, your answer to part (a) above is affected by the provisions of the Human Rights Act 1998 and of the European Convention on Human Rights. *(25 marks)*
- (c) Discuss the suggestion that the right to freedom of expression is adequately protected in English law. 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)*

TURN OVER FOR THE NEXT QUESTION

Turn over ►

Consumer Protection

7

Total for this question: 75 marks

Electrovision, a mail order company, advertised a range of electrical products for sale. The advertisement guaranteed a refund of the excess amount to any customer who could find the product purchased available elsewhere for a cheaper price. Cara ordered a DVD player for herself, and a television as a gift for her son, Duane, which was to be sent to his address. The first DVD player sent did not work properly but Cara agreed to accept a replacement. She also pointed out that the same model was available for £50 less in a local High Street store. When the replacement arrived, a number of accessories were missing from the package. Additionally, Electrovision refused to refund the £50.

A month after Duane received the television set, which was manufactured by Firth Ltd, he left it switched on for 30 minutes whilst he was in the garage. The set overheated, caught fire and caused £800 worth of damage to soft furnishings in the room. Electrovision denied any responsibility to Cara and Duane, pointing out that the documents sent with the television required any complaints to be made within two weeks of delivery of the goods.

- (a) Discuss the criminal **and** civil law obligations of Electrovision in connection with the advertising and sale of the DVD player, and consider Cara's rights and remedies. *(25 marks)*
- (b) Discuss the rights and remedies of Duane against Electrovision and Firth Ltd. *(25 marks)*
- (c) Discuss the suggestion that, in relation to **civil** law, the combination of common law and statutory rules now provides excessive protection for consumers. *(25 marks)*

8

Total for this question: 75 marks

Greg engaged Hattons to design and install a conservatory at the rear of his house. The written contract signed by both parties included a number of terms. The total price was £15 000. The work was to commence in 2 weeks' time and was to be completed within a further 6 weeks. The house was to remain habitable throughout the duration of the work. The liability of Hattons for any damage caused whilst the work was in progress was limited to 5% of the contract price (£750).

The work began 4 weeks later than agreed and took a further 10 weeks to complete. When the work was finished, the door to the conservatory did not fit properly into the doorframe and the laminated floor was uneven. Two weeks into the work, one of the workmen had damaged the framework supporting a large water storage tank. The tank had fallen through a bedroom ceiling, discharging water which flooded the main living area. Greg and his family had been forced to spend a week in a hotel. The combined cost of the damage and hotel accommodation was £3000.

- (a) Discuss Greg's rights and remedies against Hattons in connection with the time taken to complete the conservatory and its condition when completed. *(25 marks)*
- (b) Consider Greg's rights and remedies against Hattons in connection with the water storage tank incident. Include in your answer a discussion of whether Greg could have terminated the contract at that point. *(25 marks)*
- (c) Discuss the suggestion that the consumer is adequately protected by the combination of **statutory** civil and criminal law rules (including remedies and sanctions). *(25 marks)*

END OF QUESTIONS

THERE ARE NO QUESTIONS PRINTED ON THIS PAGE

THERE ARE NO QUESTIONS PRINTED ON THIS PAGE

THERE ARE NO QUESTIONS PRINTED ON THIS PAGE