

General Certificate of Education
June 2005
Advanced Level Examination



LAW
Unit 5

LAW5

**Criminal Law (Offences against Property)
or Tort or Protection of Human Rights
or Consumer Protection**

Monday 20 June 2005 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

Martin had recently become very friendly with Neville, his 80-year-old neighbour. Neville often seemed confused and sometimes called Martin, 'Bob'. Bob was Neville's son, who had died some years ago. During a visit by Martin, Neville suddenly thrust a bulky envelope into his hands, saying, "You need this more than me, son." When Martin opened the envelope, he found that it contained £5000. Hurriedly leaving, Martin tried to jump over the guardrail on the back door steps but misjudged his jump and broke the guardrail. That night, Neville almost fell when he tried to support himself on the rail as he went down the steps.

When Neville's daughter, Pam, learned about the £5000, she asked Martin to return it. When he refused, she went round to his house with the aim of getting in to find it. She managed to force open a window but could not find any money. Angry and frustrated, she hid Martin's DVD player under a pile of rubbish in his wheelie bin and had just gone back inside when Martin returned. As she tried to rush past him, he stopped her and hit her in the face. She then pushed him and he fell and badly damaged his ankle.

- (a) Discuss Martin's criminal liability for a range of **property** offences arising out of the incidents involving Neville. *(25 marks)*
- (b) Discuss Pam's criminal liability for **property** offences in connection with her visit to Martin's house. *(25 marks)*
- (c) How satisfactory is the offence of **theft**, in the light of the interpretation by the courts of the Theft Act 1968? *(25 marks)*

2

Total for this question: 75 marks

Andy went to the West Hotel to enquire about prices. Whilst the reception area was unstaffed, Andy reached over the reception counter to see what he could find in the drawer. He removed a plastic card which could be used by the hotel to 'cut' a room key. He then went to the bar and spent two hours drinking. To 'pay' for the drinks, he claimed to be a guest by showing the barman, Barry, the card and giving a room number. Barry made out the bill to the room and did not ask for any money there and then.

Andy became quite drunk and began to attract attention by eating all the free snacks placed at the bar for hotel guests. Eventually, Barry tried to stop him taking yet another plate of snacks. Resisting Barry's attempt, Andy threw a pint of beer at him, which missed Barry and soaked the carpet. Andy then ran off with the plate of snacks but without having paid for any of the drinks.

- (a) Discuss Andy's criminal liability for any **property** offences arising out of his visit to the reception counter and the way he obtained the drinks without paying. (Ignore any issue of intoxication.) *(25 marks)*
- (b) Discuss Andy's criminal liability for any **property** offences arising out of the incident with the bar snacks, the throwing of the beer and running off without paying for the drinks. *(25 marks)*
- (c) Comment critically on the suggestion that there are now some significant uncertainties in the definition of the offence of **theft**. *(25 marks)*

TURN OVER FOR THE NEXT QUESTION

Turn over ►

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

John built an extension to his house, including a bedroom for himself, which brought it much closer to the house of his nearest neighbour, Karl. In consequence, John was frequently disturbed by loud music being played late into the night by Karl's son, Lee. When he politely asked if the sound level could be reduced, he was met with abuse from Lee, and the music was played even more loudly. Additionally, John discovered that nothing would grow on a patch of his land. This patch was next to Karl's land, where a number of rusty, leaking tin drums containing some chemical had been left for a long time.

John had built a tree-house for his children in a corner of his land close to a lane. The tree-house was recently damaged in a storm and John told his children not to play in it. Even so, his daughter, Mary, and his niece, Nasma, who were both 12 years old, decided that they would repair the tree-house whilst John was at work. Part of the tree-house collapsed whilst Nasma was climbing around it, and she fell and broke her leg. Following this, John roped off an area around the tree. However, a few days later, Peter, who was 9 years old and well known in the area for mischievous behaviour, got over the hedge from the lane onto John's land and suffered head injuries when the tree-house fell onto him as he was climbing up the tree.

- (a) Discuss the rights and remedies available to John in connection with the noise **and** the apparent damage to his land from the chemical. *(25 marks)*
- (b) Consider whether Nasma **and** Peter have any rights and remedies against John in connection with the injuries that each suffered. *(25 marks)*
- (c) Critically analyse the rules on vicarious liability and explain why it should be imposed. *(25 marks)*

TV10 broadcast a very popular 'Do It Yourself' programme which included advice on viewers' problems provided by Richard, who did a lot of work for TV10, as well as writing a column for the local newspaper. During one such broadcast, Richard was asked by Susan about a suitable form of wooden flooring for her house and, by mistake, named 'Woodblox' when he meant to say, 'Blockwood'. Both Susan and another viewer, Tom, bought 'Woodblox', only to discover that the product was totally unsuitable and that they subsequently had to buy 'Blockwood'.

Whilst William was walking through town, he became curious about work being carried out on a new building site by Unibuild. He squeezed through a gap in a high wooden fence around the site, and had been watching the work for about ten minutes when he was suddenly struck by, and trapped underneath, a mobile crane which was being driven on the site. In the accident, the crane also partly demolished the fence. Vince, a passer-by, spent some time at the scene, trying to help William but was constantly afraid that the crane might topple over onto him. Zara, William's partner, saw a news item about the incident on TV10 and became hysterical when she realised, from some of the details mentioned, that the victim was William. William suffered severe permanent injuries, and both Vince and Zara found it very difficult to recover psychologically from their experiences.

- (a) Discuss the rights and remedies, if any, available to Susan **and** to Tom against Richard **and** TV10. (25 marks)
- (b) Discuss the rights and remedies, if any, available to William, to Vince **and** to Zara in connection with the incident at the building site. (25 marks)
- (c) Consider whether the rules of law in relation to compensation for **either** economic loss **or** for psychiatric injury are satisfactory. (25 marks)

TURN OVER FOR THE NEXT QUESTION

Protection of Human Rights

5

Total for this question: 75 marks

Obsessanon, an organisation founded to help those who displayed symptoms of any kind of obsessive behaviour, had recently formed a self-help group which met in a house in a quiet residential avenue. The group was currently being attended by Christine, a well-known author of fiction, and by David, a government finance minister. By chance, Emma took a photograph of her child in the avenue, in which Christine and David were clearly visible as they were leaving the house. Realising its significance, Emma sold the photograph to the *Raker*, a weekly journal concentrating on 'celebrities'. Reporters and photographers from the *Raker* researched stories about both Christine and David and secretly took a large number of photographs of them entering and leaving the house. When Christine and David became aware of the *Raker's* activities, they both sought to prevent publication of any story and photographs.

Residents of the area were outraged to discover that all kinds of 'obsessives' were meeting in a house in their neighbourhood. They mounted a campaign to stop the meetings taking place. This included demonstrations and the use of physical and verbal threats against the participants in the meetings. In consequence, the police indicated that they would stop any demonstrations taking place in the future and would arrest any individuals who appeared to persist in actions designed to carry on the campaign.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, consider the rights and remedies of Christine **and** David, and discuss the law governing the activities of the residents in trying to stop the meetings taking place. (25 marks)
- (b) Discuss the effect of the Human Rights Act 1998 and of the European Convention on Human Rights on the rights and remedies of Christine and David, **and** on the law governing the activities of the residents, which you have considered in answering (a) above. (25 marks)
- (c) Consider the suggestion that English law already gives adequate recognition to the right to privacy, without the need to rely upon the Human Rights Act 1998 and the European Convention on Human Rights. (25 marks)

6

Total for this question: 75 marks

It was the policy of Gradley town council to install speed bumps in roads to reduce speed. This was supported by most local councillors, but strongly opposed by residents in many areas. Some residents formed 'Nosbump', an association to protest against speed bumps. The chairperson was Jill. Jill organised a number of meetings and demonstrations at which there were incidents of violence and vandalism. In consequence, when Jill informed the police of a forthcoming major march and demonstration, the police responded by indicating that they would carefully control the route and would stop and search marchers. They also suggested that the whole event might have to be stopped if trouble broke out. Jill made clear her intention that the march and demonstration should go on regardless and should take the route that Nosbump desired. In the days before the event, emotions were inflamed by a pamphlet written by Jill and available from many Nosbump members, which suggested that Henry, a town councillor, supported speed bumps because he had a secret financial interest in the company employed to install them.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss the powers of the police in connection with the forthcoming march and demonstration, and consider what rights and remedies Henry may have in connection with the allegation in Jill's pamphlet. *(25 marks)*
- (b) Discuss the effect of the Human Rights Act 1998 and the European Convention on Human Rights on your answer to (a) above. *(25 marks)*
- (c) Comment on the relationship between privacy and freedom of expression in English law. Include in your answer a consideration 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

Meena saw a large poster in the window of Sleepright, a local store, which stated that the 'Resteasy' bed was "the latest model in sleep technology" and was "guaranteed to reduce any kind of back pain". When Meena bought one from Sleepright for £1500, she did not mention that she had a little-known illness which caused her to suffer considerable back pain when lying down. When the bed was delivered, it was badly scratched in places and the mattress appeared to be slightly stained. After using the bed for three weeks, Meena's back pain had intensified to such an extent that she was off work for a long time and was distressed to be unable to attend her only daughter's wedding. Meena also discovered that the manufacturer had stopped making the 'Resteasy' bed two years ago, and had replaced it with a newer model.

To help her to get around her home more easily, Meena engaged Neil to carry out certain modifications to parts of the house. She paid Neil a deposit of £100 towards work costing a total of £1000. Because certain materials could not be obtained immediately, it was agreed that the work would start in "two or three weeks' time". When Neil had still not begun work after two months, Meena cancelled the agreement, demanded her money back and paid £1200 to another builder to have the work done.

- (a) Discuss the civil **and** criminal law obligations of Sleepright in connection with the advertising and sale of the 'Resteasy' bed, and consider Meena's rights and remedies against Sleepright. *(25 marks)*
- (b) Consider the rights and remedies of Meena **and** of Neil in connection with the agreement for the work on Meena's house. *(25 marks)*
- (c) How far would you agree that there is inadequate control through statute and common law of the use of exclusion clauses in consumer contracts? *(25 marks)*

8

Total for this question: 75 marks

Amy had recently bought a house and was busy furnishing and equipping it. Her friend, Mark, decided to help her out. He engaged the services of Paul to build a number of pieces of 'self-assembly' furniture which he knew that Amy had bought. When assembling a glassware cabinet, Paul misread some of the instructions. In consequence, when built, the cabinet was a lot weaker than it should have been. When Amy filled it, it collapsed completely and crystal glassware worth £500 was broken. Paul refused to compensate Amy for two reasons: first, that he had made the agreement with Mark, not Amy; and second, that, in any case, a term of the written agreement provided that, in the event of any damage, Paul would be liable only to supply and assemble a replacement item of furniture.

Mark also gave Amy a pressure cooker to cook food. It was manufactured by Quickpress and he bought it from Cookwell. Whilst Amy was using it a few weeks later, the lid of the cooker blew off and she was badly scalded by steam and hot water. A later examination revealed that the cooker had been fitted with a faulty pressure valve, which had resulted in a build-up of excess pressure.

- (a) Discuss Amy's **contractual** rights and remedies, if any, against Paul. *(25 marks)*
- (b) Discuss the rights and remedies of Amy **and** of Mark against Cookwell **and** Quickpress. *(25 marks)*
- (c) In your view, how satisfactory is the current **statutory** protection in **civil** law for consumers against providers of goods and services? *(25 marks)*

END OF QUESTIONS

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