

General Certificate of Education
June 2006
Advanced Level Examination



LAW
**Unit 5 Criminal Law (Offences against Property)
or Tort or Protection of Human Rights
or Consumer Protection**

LAW5

Monday 19 June 2006 1.30 pm to 2.45 pm

For this paper you must have:

- 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.
- Give reasoned answers. Where appropriate, make reference to authority.

Information

- The maximum mark for this paper is 85.
10 of these marks are for the Quality of Written Communication.
- The marks for questions are shown in brackets.
- You are reminded of the need for good English and clear presentation in your answers. All questions should be answered in continuous prose. Quality of Written Communication will be assessed in all answers.

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

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)

Total for this question: 75 marks

- 1** Alan had recently been dismissed from his job on a building site. Walking home after drinking a lot in a bar, he found himself passing the site where he had worked. Very unsteadily, he climbed the scaffolding to the second floor of the building, which was nearly completed. Not knowing what to do next, he picked up a can of paint and began to clamber back down. Whilst doing so, he slipped on a ladder, breaking a bolt securing the ladder to the scaffolding frame and causing the ladder to become unstable. When he reached the ground, he threw the can of paint into a rubbish skip. The lid came off, spilling paint all over the contents of the skip.

The next day, Alan was in a crowded café, sharing a table with Bob, whom he did not know. Alan had ordered a meal without checking the price, but he knew that he had only a small amount of money in his pocket, and no other means of paying. Alan and Bob were given bills at about the same time. Bob went out of the café, leaving money on the table with his bill. Shortly afterwards, a waiter came round and Alan allowed him to believe that it was his bill and money on the table. After getting change from the waiter, Alan walked out with his own bill still unpaid.

- (a) Discuss Alan's possible criminal liability arising out of the incidents at the building site. *(25 marks)*
- (b) Discuss Alan's possible criminal liability arising out of the incidents in the café. *(25 marks)*
- (c) Discuss the suggestion that the offence of theft is in urgent need of reform. *(25 marks)*

Total for this question: 75 marks

- 2 One night, 'for a laugh', Darren dismantled the safety barriers round a hole in the road, and threw them over a hedge into a stream, along with the warning lamps, one of which broke. The next day, he was in an open park when he came across a mountain bike, which was lying on the ground near a path. Though he waited for 15 minutes, he did not see anyone else, so he rode off on the bike. A week later, Evan saw the bike parked outside a house. Though there were significant differences in colour and other features, he immediately believed it to be his own bike, which had been stolen a few weeks before. He had just put his hands on the handlebars and was about to jump onto it when Darren came out of the house. Evan ran off. In reality, it was not Evan's bike.

Darren and his gang, who were all about 19 years old, told Frank, who was 16 years old and of low intelligence, that they would beat him up unless he did everything they said. They gave him a toy gun, and a towel to wrap round it to disguise its appearance, and told him to go into the local shop and demand money from the shop owner, Glenda. Frank entered the shop very hesitantly, not really knowing what to do, but then pointed the gun at Glenda and snatched the nearest object he could find. As he did so, Glenda suffered a heart attack and collapsed. She took many months to recover. When Frank examined what he had taken, he found that it was a box containing chocolates which were being offered free to every customer.

- (a) Discuss the criminal liability of Darren arising out of the incident with the security barriers and warning lamps, and of Darren and of Evan in connection with the mountain bike. (25 marks)
- (b) Discuss Frank's possible criminal liability for any property offences arising out of the incidents at the shop. (25 marks)
- (c) Discuss the suggestion that the offence of theft is in urgent need of reform. (25 marks)

Turn over for the next question

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

- 3** Matt lived in a house with very substantial grounds. Once isolated, his property now backed onto newly built houses on an estate, from which it was screened only by a fence and a row of trees. Matt enjoyed a range of hobbies, including building and flying model helicopters. He was very eccentric, and often flew them late into the evening and early in the morning in the summer months. They were very noisy and disturbed the residents in the houses and their pet animals. His response to complaints seemed to be to fly them at even more unpredictable hours. A shed in his grounds contained a lot of materials which he had collected over the years whilst pursuing his hobbies. Some of the materials had become unstable, and an explosion occurred one night which caused damage to houses and gardens on the estate.

On one occasion, Matt was demonstrating his helicopters to his friend, Nick. Omarjeet, a 10-year-old boy from the estate, had sneaked into the grounds through a gap in the fence to watch, as he often did. Matt lost control of a helicopter whilst trying a very complicated manoeuvre. The helicopter narrowly missed Nick, and flew straight into some bushes where Omarjeet was hiding. Omarjeet was struck by the rotor blade, which partially severed his arm. Omarjeet's mother, Pamee, who had been at work, rushed to the hospital and saw his severe injuries just before he was taken away for an operation. Both Nick and Pamee suffered psychological problems on account of what they had seen.

- (a) Discuss the rights and remedies, if any, available to the residents of the estate arising out of Matt's pursuit of his hobby, and the explosion in the shed. *(25 marks)*
- (b) Discuss the rights and remedies, if any, available to Omarjeet, Nick and Pamee against Matt arising out of the incident with the helicopter. *(25 marks)*
- (c) Choose **one** of the following:

Discuss the suggestion that the law unduly restricts the rights of claimants to recover compensation for economic loss. *(25 marks)*

OR

Discuss the suggestion that the law unduly restricts the rights of claimants to recover compensation for psychiatric injury. *(25 marks)*

OR

Comment critically on the rules on vicarious liability, and discuss the reasons for their application. *(25 marks)*

Total for this question: 75 marks

- 4 The Goldie Foundation, which offered a range of training courses, called in James, a building engineer, when it discovered that there was an unpleasant smell spreading through one of its buildings. James reported to the Foundation that there was a serious problem with the drains which would require closure of the building and substantial work. The Goldie Foundation closed the building and refunded £30 000 in fees to students who could not begin courses. However, when a small amount of investigative work had been done, it was discovered that there was a very minor problem which could have been cured by some simple work, without ever closing the building. Unfortunately, before discovering this, the Goldie Foundation had also suspended its catering contract with Cookbox, as it was entitled to do under the contract, costing Cookbox £5000 in lost profits.

Another building owned by the Goldie Foundation included a climbing wall on which participants could practise climbing skills. During the previous few months, there had been three or four incidents involving climbers slipping from a particular part of the wall, though without injury because they were wearing a safety harness. Closer inspection would have revealed some defects in the wall at that point. Kate was an instructor in the use of the wall. Contrary to orders from the Goldie Foundation, she used her keys to open up the area at night when there was no supervision, and climbed the wall with her friend, Leah, without a safety harness. Leah, who was not a student, slipped on the area of the wall with defects and fell, knocking Kate off as well. Both were seriously injured.

- (a) Discuss the rights, if any, available to the Goldie Foundation and to Cookbox against James in connection with the loss of money each suffered. *(25 marks)*
- (b) Consider the possible liability of the Goldie Foundation to Kate and to Leah for the injuries which they suffered. Consider also whether the Goldie Foundation may be liable to Leah because of Kate's actions. *(25 marks)*
- (c) Choose **one** of the following:

Discuss the suggestion that the law unduly restricts the rights of claimants to recover compensation for economic loss. *(25 marks)*

OR

Discuss the suggestion that the law unduly restricts the rights of claimants to recover compensation for psychiatric injury. *(25 marks)*

OR

Comment critically on the rules on vicarious liability, and discuss the reasons for their application. *(25 marks)*

Turn over for the next question

Protection of Human Rights

Total for this question: 75 marks

- 5 Roger was an explorer held in great affection by the public. He was regarded as a hero after his valiant but unsuccessful attempts to save his companion from death on one of his earlier explorations in a remote area of the world. Roger had a close friend, Steve, who lived in the same area as Tariq. One morning, Tariq received a lot of post, some of which should have been delivered to Steve. Tariq began opening and reading the letters, without paying much attention to the envelopes. He was suddenly amazed to discover that he was reading a letter written by Roger to Steve, in which Roger appeared to be admitting that he did not deserve to be regarded as a hero because, in reality, he had behaved in a cowardly way and had only survived himself because of his companion's brave actions which caused his own death.

Tariq sold the letter to the *Enquirer*, a national newspaper. The *Enquirer* sent its reporters to try to question Roger. They besieged his house, persistently telephoned him and jostled him whenever he left the house. The *Enquirer* also offered money to friends and neighbours to reveal any stories about Roger which would cast him in an unpleasant light. Having discovered nothing of any interest, the *Enquirer* then informed Roger that it was in possession of the letter and proposed to publish a story describing him as a fraud for whom the public should have no respect. Roger asserted that the letter was part of a series of letters in which he was discussing a possible work of fiction with his friend, Steve. This did not convince the *Enquirer*.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss the rights and remedies, if any, available to Roger against Tariq, the *Enquirer*, and its reporters. (25 marks)
- (b) Discuss the effect of the Human Rights Act 1998 and of the European Convention on Human Rights on your answer to (a) above. (25 marks)
- (c) **EITHER**

With reference to the protection of interests in privacy, discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has failed to establish an appropriate balance between those interests and the protection of freedom of expression. (25 marks)

OR

With reference to interests in the preservation of public order, discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has failed to establish an appropriate balance between those interests and the protection of freedom of expression. (25 marks)

Total for this question: 75 marks

6 William was a farmer who had been licensed to carry out experiments in growing genetically modified (GM) crops. The experiments were opposed by large numbers of people who were determined to stop them. There had already been a number of incidents involving threats by Angus to William and his employees, and cars had been damaged. Brian, a well-known scientific researcher into GM crops, proposed to visit the area to address a public meeting in favour of the experiment. Members of *Nature First*, a group with a record of violent opposition to the growing of GM crops, indicated that it would stage a countermarch and demonstration in the same area and would seek to silence Brian and his supporters. The police were very concerned about the possible implications for public order of the planned events, and had indicated that they might seek to prevent any activity taking place.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss what action may be taken against Angus, and consider what legal measures the police might adopt to minimise risks to public order, should they decide to allow the meeting and countermarch and demonstration to go ahead. (25 marks)
- (b) Discuss the effect of the Human Rights Act 1998 and of the European Convention on Human Rights on your answer to (a) above. (25 marks)
- (c) **EITHER**

With reference to the protection of interests in privacy, discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has failed to establish an appropriate balance between those interests and the protection of freedom of expression. (25 marks)

OR

With reference to interests in the preservation of public order, discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has failed to establish an appropriate balance between those interests and the protection of freedom of expression. (25 marks)

Turn over for the next question

Consumer Protection

Total for this question: 75 marks

- 7 Chris was shopping in Devons Store when he saw a prominent sign over a display of suits which stated, 'Buy one and get one at half price'. He did not look at other notices displayed around the store, which stated that holders of a Devons storecard could get large discounts by paying with the card. When he took the two suits to the cashier, Chris was asked whether he had a storecard. He said no, and that he did not want one. He was then dismayed to discover that he had been charged full price for both suits on his debit card. Later, when he queried the price, he was told that the half price offer was available only to those who paid with a Devons storecard.

Chris bought a special hoist from Movefree to enable Janet, his old and partially disabled mother, to get in and out of her bath. The hoist was manufactured by Easeright. Whilst Janet was using the hoist, it collapsed because it had been poorly assembled during manufacture. Janet was thrown onto the bathroom floor and suffered a broken arm.

- (a) Referring both to **criminal** and to **civil** law, discuss the rights, duties and remedies of Chris and of Devons Store arising out of the price of the suits. *(25 marks)*
- (b) Consider the rights and remedies of Chris and of Janet against Movefree and against Easeright arising out of the defects in the hoist and the injury to Janet. *(25 marks)*
- (c) **EITHER**

To what extent would you agree that, at present, consumers of goods and services have insufficient rights and remedies against those who supply them? *(25 marks)*

OR

Comment critically on the common law and statutory approach to the control of exclusion clauses. *(25 marks)*

Total for this question: 75 marks

- 8 Frances bought a television from Gordons Electrical Store, after seeing an advertisement in the window stating that it was the most recent model. Before doing so, she was assured by a salesman that it would work very well with the DVD player which she already owned. However, when she tried to use it, she discovered that the DVD player would not work with the television. Moreover, she found that the television could not be properly tuned to receive certain channels. She asked Gordons Electrical Store to refund her money, but she was told that she had signed an invoice agreeing that Gordons Electrical Store would be liable only to repair the defect or to replace the item with a suitable alternative. She rejected a replacement when she also discovered that the model she had bought was not the most recent, and that it contained some outdated technology.

Frances agreed to have her kitchen refitted by Harry for £5000. The work included some electrical re-wiring. She paid a deposit of £500, the remainder to be paid on completion. The agreement included a provision in small print that Harry would not be liable for any damage or loss if any other person did any work on the kitchen installation without Harry's approval. Four weeks after starting, Harry had still not completed the installation and Frances was becoming increasingly upset. She asked Ken to complete the work, and paid him £2000. Shortly afterwards, her electric cooker was damaged because Harry had used the wrong electrical cable and fittings when wiring it in. Frances refused to pay Harry for any work and claimed £200 from him for the damage to her cooker.

- (a) Referring both to **criminal** and to **civil** law, discuss the rights, duties and remedies of Frances and of Gordons Electrical Store in connection with the advertising and sale of the television. *(25 marks)*
- (b) Discuss the rights and remedies of Frances and of Harry arising out of the refitting of the kitchen. *(25 marks)*
- (c) **EITHER**

To what extent would you agree that, at present, consumers of goods and services have insufficient rights and remedies against those who supply them? *(25 marks)*

OR

Comment critically on the common law and statutory approach to the control of exclusion clauses. *(25 marks)*

END OF QUESTIONS

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