

General Certificate of Education
January 2003
Advanced Level Examination



LAW
Unit 4

LAW4

Friday 24 January 2003 Afternoon 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 LAW4.
- 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 the Person)

1

Total for this question: 75 marks

Anne was a registered childminder who looked after Ben, Cleo and Dan, who were all three years old. Recently, Anne had been getting very tired and her doctor had prescribed tablets to give her more energy. One morning, instead of taking the energy tablets, she absent-mindedly took tranquilliser tablets prescribed for her some years before and became very drowsy. Whilst in that condition, she told Ben to bring her a cup of coffee that she had just made. Ben spilt some of the drink on himself and was severely scalded. Meanwhile, Anne watched as Cleo found some scissors and jabbed them into Dan's leg.

Ben's mother, Ellen, suffered from a bad skin disease which made her irritable and short-tempered. When she discovered what had happened, she drove round to Anne's house, where she saw Anne's husband, Fred, in the drive. He seemed to be laughing and joking with someone inside the house and she was so furious that she drove right at him. Though she tried to brake at the last moment, the car was going too fast and crushed Fred against a wall. Fred died from his injuries.

- (a) Discuss Anne's criminal liability for the injuries to Ben and Dan. (25 marks)
- (b) Discuss Ellen's criminal liability for the death of Fred. (25 marks)
- (c) What criticisms would you make of the current law of homicide? (25 marks)

2

Total for this question: 75 marks

Gurdeep, who was 25 years old, was fascinated by knives and spent many hours improving his skills in throwing them. He persuaded Helen, a fifteen-year-old girl whom he had just met, and who was very flattered by his apparent interest in her, to act as his 'assistant'. He told her that he was a circus knife-thrower. He stood her against a wooden fence and threw knives towards her, aiming to hit the fence close to her body. As he did so, Helen had her eyes closed tight but her mouth was open and she was shaking. One knife caused a splinter of wood to fly out and embed itself in her mouth, leading to a bad infection. Helen later suffered a nervous breakdown.

Gurdeep himself reacted very badly to the experience and fled to another area of the country, where he slept rough and acquired a reputation for very odd behaviour, proclaiming himself to be directed by 'voices'. One day, Irene, a 65-year-old charity worker, tried to offer him food and shelter. Gurdeep thought that she was trying to take him away to have him locked up in a hospital. He kicked her in the thigh and she suffered a heart attack. After watching her for some minutes, he walked away without calling for any help. By the time Irene was found, it was too late to save her life.

- (a) Discuss Gurdeep's criminal liability in connection with the incidents involving Helen. (25 marks)
- (b) Discuss Gurdeep's criminal liability for the death of Irene. (25 marks)
- (c) Discuss the suggestion that, with some minor changes, the existing law on non-fatal offences against the person would be perfectly satisfactory, so that major reform is not required. (25 marks)

TURN OVER FOR THE NEXT QUESTION

Turn over ►

Contract Law**3****Total for this question: 75 marks**

Ken, a widower and the owner of a very profitable business, was disappointed when his only son, Leo, indicated that he did not want to go to university and later take up a position in the business. Ken told Leo that if he changed his mind and 'succeeded at university', he would pay him £20 000. Leo agreed. However, in the final year of Leo's studies, Ken fell in love with Marisa and decided that he wanted to keep all of his available money. He warned Leo that he would not pay him. Two months later, Leo was awarded a university degree but with a poor grade.

Ken was a great art lover and he commissioned Ned to paint a picture, which was to consist of a portrait of himself and Marisa. The portrait was to be one of his wedding presents to Marisa and was to be hung in the main room of their house after the wedding. Ken paid £300 of the £3000 fee, the rest to be paid on completion. Some weeks later, Ken was devastated to discover that Marisa was already married and had deceived him as to her intentions. Ken called the wedding off, cancelled the portrait and demanded that Ned should return the £300. By this time, Ned had spent £400 on materials and had painted about half of the portrait of Ken and Marisa.

- (a) Consider whether Leo has any legal right to the £20 000 which Ken originally promised to pay him. *(25 marks)*
- (b) Taking account of the rules on termination of contracts by frustration **and** by breach, consider the rights, duties and remedies of Ken and Ned in connection with their agreement. *(25 marks)*
- (c) Proof of an agreement between the parties is one of the essential requirements of a valid contract. How satisfactory are the rules on agreement in contract? *(25 marks)*

Saiqa placed a card in the window of a local shop. The card read, 'Reliable gardener wanted. 4 hours per week. £6 per hour.' Roger telephoned in response and agreed to do the work, but said that he had something more like £7 per hour in mind. Saiqa took his number but did not ring back. Next day, Roger left a message on her answer phone agreeing to £6. When Roger called to see her, Saiqa told him that she had engaged Pete to do the work. Pete was furious when he discovered that Saiqa had calculated the first payment to him on the basis that the hours worked did not include time spent travelling to and from her house, nor even time spent away from the garden disposing of garden waste.

Roger bought a £200 lawnmower from Tidygarden, which he paid for with a forged building society cheque belonging to Vic. Aisha, the cashier, thought she recognised Roger, from whom all credit facilities had been withdrawn by Tidygarden. However, when she challenged him, he produced the cheque and other identification in Vic's name, and she decided that she must have got it wrong. Roger then sold the lawnmower for £100 to Will, who knew nothing about how Roger had got it.

- (a) Discuss the rights, duties and remedies of Saiqa, Roger and Pete in connection with the arrangements for the gardening work. (25 marks)
- (b) Taking account of the rules of law concerning the effect on a contract of mistake and misrepresentation, discuss the rights and remedies of Tidygarden against Roger and Will in connection with the lawnmower. (25 marks)
- (c) Outline and critically evaluate any **two** ways in which a contract may be discharged. (25 marks)

END OF QUESTIONS