

General Certificate of Education
June 2008
Advanced Level Examination



LAW

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

LAW5

Monday 16 June 2008 9.00 am to 10.15 am

For this paper you must have:

- a 12-page answer book.

Time allowed: 1 hour 15 minutes

Instructions

- Use black ink or black 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 to be marked.
- Give reasoned answers. Where appropriate, make reference to authority.

Information

- The maximum mark for this paper is 85.
Ten of these marks will be awarded for using good English, organising information clearly and using specialist vocabulary where appropriate.
- The marks for questions are shown in brackets.

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** Alex was invited by his friend, Ben, to spend the weekend at the house of Ben's parents. When Alex got there, he discovered that Ben's parents owned a painting that he was sure was very valuable, though they did not realise it. To try to get it for himself, Alex told them that, though the painting was obviously not worth very much, he wanted to buy it for £200 to give to his mother as a present. Ben's parents refused, saying that they wanted to keep it for sentimental reasons. At dinner, Alex drank a great deal of wine, followed by brandy. He went to bed and fell asleep, but woke up soon after and staggered to the bathroom where he started to run a bath. However, he forgot that he had done so and went back to bed. The bathwater overflowed, and water streamed through the ceiling and down the walls of the room below, and into electrical fittings.

During the commotion the next day, when work had to be done to deal with the effects of the water, Alex was able to walk into a room that had previously been locked. There, he forced open a locked drawer and took out all the contents, but put them all back after deciding that none was of any interest. However, he had just picked up a small heavy paperweight from a desk, and decided to keep it, when Ben's father, Colin, came into the room and saw him do so. Colin roughly took hold of Alex, who immediately hit him with the paperweight before running away. Colin suffered bad concussion.

- (a) Discuss Alex's possible criminal liability for **property** offences arising out of the offer to buy the painting and the bathwater incident. *(25 marks)*
- (b) Discuss Alex's possible criminal liability for **property** offences arising out of the incidents in the room which he entered the next day. *(25 marks)*
- (c) Choose any **one** property offence and consider what criticisms may be made of its elements. *(25 marks)*

Total for this question: 75 marks

- 2 Debbie spent a lot of time with her aunt Elaine, who, though quite wealthy, was old and had some difficulty in understanding her financial affairs. Debbie realised that Elaine was wasting a lot of her money responding to various fraudulent requests for ‘claim registration fees’ and the like, sent to her by fraudsters who promised that, in return, she would receive large sums of money. Consequently, Debbie sometimes kept money for herself that Elaine had asked her to post off to the fraudsters. Additionally, Elaine started to give Debbie large sums of money for herself, without appearing to be certain about just how much was involved.

Debbie told her friend, Helen, about what had been happening. In turn, Helen told her boyfriend, Jack. Jack was an unpleasant character with a violent reputation. He told Debbie that if she did not start bringing him items from Elaine’s house, he would injure Elaine. In consequence, Debbie went into Elaine’s bedroom and took some valuable jewellery to give to Jack. However, the next time he asked, she was able to satisfy his demands by giving him a watch that she had found in the changing rooms at her local swimming baths.

- (a) Discuss the possible criminal liability of Debbie for property offences arising out of the way that she obtained money from Elaine. *(25 marks)*
- (b) Discuss the possible criminal liability of Debbie for property offences arising out of the way that she responded to Jack’s demands. *(25 marks)*
- (c) Choose any **one** property offence and consider what criticisms may be made of its elements. *(25 marks)*

Turn over for the next question

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

- 3** Ken owned a house with a large garden, in which was situated an outdoor swimming pool. In the summer months, he was in the habit of holding frequent weekend parties to which he invited many guests. The guests stayed up most of the night, talking, shouting, and dancing to loud music, as well as enjoying the swimming pool and barbecues. In consequence, Ken's nearest neighbours on both sides of his garden found that they suffered a lot of disturbance from noise and smoke, and were usually subject to abuse and even more noise if they complained. On one occasion recently, barbecue lighter fluid stored in bottles kept in a shed close to Larry's land had exploded when accidentally ignited, and had damaged Larry's garden.

Ken was aware that some youths from a nearby estate had occasionally come into his garden during the night and had used the swimming pool. In consequence, he had begun to put a cover over it when it was not in use. One night, however, Mike climbed into the garden after he had been out drinking, and did not realise in the dark that the swimming pool was covered. When he tried to dive in, he twisted awkwardly on the cover and severely damaged his neck. Some two weeks later, Ken engaged Nigel to carry out various repairs to the tiles. Whilst Nigel was doing so, having drained the pool, he tripped on a broken tile at the edge of the pool and fell into the deep end, breaking his arm. In consequence, he could not work for two months.

- (a) Consider the rights and remedies of Ken's neighbours in connection with the noise and other disturbances, and of Larry in connection with the damage caused by the explosion. *(25 marks)*
- (b) Consider the rights and remedies, if any, of Mike and of Nigel against Ken in connection with the injuries they suffered. *(25 marks)*
- (c) Choose **one** of the following:

How satisfactory is the law concerning compensation for psychiatric injury? *(25 marks)*

OR

How satisfactory is the law concerning compensation for economic loss? *(25 marks)*

OR

How satisfactory is the law on vicarious liability? *(25 marks)*

Total for this question: 75 marks

- 4 Paul owned a collection of toy model cars, for which he had been offered £1500 by a collector from Japan who was only in the country for one month. Paul asked Modeval, specialists in the valuation and sale of all kinds of toy model cars and railways, to put a value on his collection. Ray was sent by Modeval to assess the collection and he concluded that it was worth £2500. Consequently, Paul refused the offer from the Japanese collector and put his collection into an auction with a minimum price of £2500. In fact, there was no bid higher than £1000 and Paul was forced to withdraw the collection. At the same time as he had valued the model car collection, Ray had also given Paul his opinion of the value of two old teddy bears owned by Paul, in consequence of which Paul sold them for £50. Subsequently, Paul discovered that they were worth £300 as a pair.

Whilst Paul was driving to a model railway exhibition, he was involved in a collision with a cyclist, Sam. Paul had been trying to avoid hitting Tom, a pedestrian who had stepped into the road without looking whilst texting on his mobile phone. Sam's legs were crushed under the wheels of Paul's car and Paul tried to comfort him until an ambulance arrived. Sam's girlfriend, Amy, had been nearby when the accident happened and she came onto the scene just as Sam was being put into the ambulance. She immediately recognised his bicycle and his clothing and was able to see that he was badly injured. Both Paul and Amy subsequently suffered profound psychological problems on account of the experience.

- (a) Consider whether Paul has any rights and remedies against Ray and against Modeval in connection with the valuation of the collection of model cars and of the teddy bears. *(25 marks)*
- (b) Consider whether Sam, Paul and Amy have any rights and remedies against Tom in connection with the accident and its consequences. *(25 marks)*
- (c) Choose **one** of the following:
- How satisfactory is the law concerning compensation for psychiatric injury? *(25 marks)*
- OR**
- How satisfactory is the law concerning compensation for economic loss? *(25 marks)*
- OR**
- How satisfactory is the law on vicarious liability? *(25 marks)*

Turn over for the next question

Protection of Human Rights

Total for this question: 75 marks

- 5 A large number of speed cameras had been installed on roads around Westland, and many more were planned. Their installation and use had very strongly divided opinion in the area. Ben had formed an organisation opposed to speed cameras, whilst Charles was prominent in leading support for their use. Every time either group mounted any kind of march and demonstration, the other group tended to turn up to stage a counter-march and demonstration. Though these occasions had often been very good natured, more recently there had been some instances where violence had flared up, and there was evidence that both groups had acquired supporters who saw the use of violence as a legitimate means of making their views known.

Ben now proposed a very large march and demonstration, the route of which would pass the offices of the organisation responsible for the speed cameras, as well as the homes of many prominent supporters of the use of the cameras. The plan was to hold a rally in the town square and to seek to present a petition to the mayor. Charles indicated that his organisation would be present to challenge Ben's group. The police received information from usually reliable sources that some persons would be carrying weapons and would be prepared to use violence.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss what legal measures the police might adopt to minimise risks to public order arising out of the planned march and demonstration. *(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**

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has established an acceptable balance between the protection of freedom of expression and the protection of interests in privacy.

(25 marks)

OR

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has established an acceptable balance between the protection of freedom of expression and the preservation of public order. *(25 marks)*

Total for this question: 75 marks

- 6 In the course of carrying out an investigation into the activities of various cults, Dave, a journalist, acquired papers relating to Eros, a highly secretive mystical cult reputed to engage in bizarre sexual practices. The papers were supplied by Fran, a member of Eros, and appeared to suggest that Gerry had been a member many years before and had played a key role in promoting the practices. Gerry is now a highly respected local councillor who is well known for his moralistic approach to 'family values' and for arguing for restraint in sexual matters.

Unknown to Gerry, Dave followed him around for a few weeks, taking numerous photographs of both public and private activities, and sought information about him from anyone who appeared to know him. Eventually, Gerry began to realise that he was being followed and there were two or three confrontations with Dave, including an argument when Dave came into the garden of Gerry's house at night. Gerry then discovered that Dave's newspaper, *Spotlight*, was proposing to publish a series of stories about him, comparing his past activities with his present views, and using many of the photographs that Dave had recently taken. Gerry was outraged, denying very strongly that he had ever been a member of Eros and asserting that it must be a case of mistaken identity. Eros was furious that details of its activities might come to light.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss the rights and remedies, if any, available to Eros and to Gerry. (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**

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has established an acceptable balance between the protection of freedom of expression and the protection of interests in privacy. (25 marks)

OR

Discuss the suggestion that English law (including the Human Rights Act 1998 and the European Convention on Human Rights) has established an acceptable balance between the protection of freedom of expression and the preservation of public order. (25 marks)

Turn over for the next question

Consumer Protection

Total for this question: 75 marks

- 7 Intrex, an electrical store, placed an advertisement in the local newspaper, offering two months' free supply of washing liquid with every Gremlin washing machine bought for cash by the end of that week. Howard bought a Gremlin on the Saturday, but was dismayed to discover that the free supply of washing liquid was not available because Intrex considered that the week ended on a Friday. Howard engaged Jim to plumb the machine in for him for £70. However, the machine did not fill properly with water because Jim had made errors when connecting new pipework to the machine's flexible pipes.

Karen also bought a Gremlin washing machine from Intrex, but she asked for it to be delivered to the house of her son, Matt. After Matt had used the machine for a month, it suddenly leaked a large amount of water during a wash which Matt had left running when he went out for the day. The water flooded the kitchen floor, causing £300 of damage. The leak resulted from faulty assembly of components during the manufacturing process. The washing machine was manufactured by Brightclean.

- (a) Referring both to criminal **and** to civil law in relation to the dealings between Howard and Intrex, and to civil law in the dealings between Howard and Jim, discuss the rights, duties and remedies of the parties. *(25 marks)*
- (b) Consider the rights and remedies of Matt against Intrex and against Brightclean, arising out of the problems with the washing machine purchased by Karen and the damage caused to Matt's floor. *(25 marks)*
- (c) **EITHER**

Discuss the suggestion that the law has not succeeded in striking an appropriate balance between the interests of consumers of goods and services and the interests of those who supply them. *(25 marks)*

OR

Discuss the suggestion that, in its approach to the control of exclusion clauses, the law has not succeeded in striking an appropriate balance between the interests of consumers of goods and services and the interests of those who supply them. *(25 marks)*

Total for this question: 75 marks

- 8 Oliver's house needed window locks, and work to be done on four doors to make them open and close more freely. He bought window locks from Nick's hardware store for £60 after discussing with Nick what kind of locks were required. He then agreed with Pete, a handyman, that Pete would install the locks and do the work on the doors for a price of £500. Oliver paid £200 immediately, the remainder to be paid on completion. Oliver discovered that the window locks were totally unsuitable but that Nick would only exchange them for other goods rather than refunding his money. When Pete had still not started the work after six weeks, Oliver told him not to bother and demanded the repayment of his £200. Pete refused, saying that he was now ready to do the work.

Instead, Oliver arranged for Ray to do the work and also to supply and fit two new doors, at a total cost of £1600. In an agreement which he signed, Oliver agreed that Ray would be liable to pay not more than 25% of the contract price in respect of any defective goods or workmanship. After the work had been done, Oliver discovered that two of the doors would still not open and close properly and that one of the new doors supplied was of poor construction and could not be painted to achieve an appropriate finish. It was estimated that further work to put the defects right would cost £700.

- (a) Discuss the rights, duties and remedies of Oliver, of Nick and of Pete in connection with the window locks and the work on the doors. *(25 marks)*
- (b) Discuss the rights, duties and remedies of Oliver and of Ray arising out of the supply of the doors and the work on the other doors. *(25 marks)*
- (c) **EITHER**

Discuss the suggestion that the law has not succeeded in striking an appropriate balance between the interests of consumers of goods and services and the interests of those who supply them. *(25 marks)*

OR

Discuss the suggestion that, in its approach to the control of exclusion clauses, the law has not succeeded in striking an appropriate balance between the interests of consumers of goods and services and the interests of those who supply them. *(25 marks)*

END OF QUESTIONS

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