



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Subsidiary Level and Advanced Level

LAW

9084/22

Paper 2 Data Response

October/November 2011

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.

Write your Centre number, candidate number and name on all the work you hand in.

Write in dark blue or black pen.

Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question.

At the end of the examination, fasten all your work securely together.

The number of marks is given in brackets [] at the end of each question or part question.

This document consists of 4 printed pages.



Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

- 1** Amjad, his mother Kaila and his sister Soraya work in the local corner shop. Rashid enters the shop armed with an iron bar. He beats Amjad over the head with the iron bar and strikes Kaila and Soraya. He then runs off with the contents of the cash register.

Amjad, Kaila and Soraya make written witness statements to the police. They recognise Rashid as the robber. However, Amjad is seriously injured by the blow from the iron bar and subsequently loses his memory of the incident. Kaila is so shocked by the attack and the injury to Amjad that she has a heart attack and dies. Soraya is terrified of Rashid, who lives nearby. She tells a police officer that she is too frightened to give evidence. At the trial the prosecution seek to rely on the written statements of Amjad, Kaila and Soraya as none of them are available to come to court to give evidence.

(a) At Rashid's trial should the judge admit the written evidence of:

(i) Amjad?

(ii) Kaila?

Briefly state your reasons.

[10]

(b) In what circumstances can the court admit the evidence of Soraya?

[10]

(c) Can Rashid challenge the statements made on the basis of the Human Rights Act?

[10]

(d) Discuss the role of the Crown Prosecution Service in the prosecution of criminal cases.

[20]

Source material

Criminal Justice Act 2003

s.116 (1) In criminal proceedings a statement not made in oral evidence in the proceedings is admissible as evidence of anything stated in it IF:

- (a) the oral evidence given in the proceedings by the person who made the statement would be admissible ...;
- (b) the person who made the statement is identified to the court's satisfaction; and
- (c) any one of the five conditions mentioned in the subsection (2) is satisfied;

(2) The conditions are:

- (a) that the relevant person is dead;
- (b) –
- (c) that the relevant person is unfit to be a witness because of his bodily or mental condition;
- (d) –
- (e) through fear the relevant person does not give oral evidence in the proceedings ...

- (4) leave may be given under section (2)(e) only if the court considers that the statement ought to be admitted in the interests of justice, having regard:
- (a) –
 - (b) to any risk that its admission or exclusion will result in unfairness to any party to the proceedings (and in particular how difficult it will be to challenge the statement if the relevant person does not give oral evidence).

R v Sellick [2005]

It was held that where a court is sure that a prosecution witness does not give evidence because he or she is afraid of the defendant then a statement made by that witness may still be admitted even if it is the only evidence against the defendant. A defendant cannot complain that his rights under Article 6(3) European Convention of Human Rights have been infringed when it is his own action that has caused the witness to be absent.

Human Rights Act 1998

Article 6(3)

Everyone charged with a criminal offence has the following minimal rights:

- (b) to have adequate time and facilities for the preparation of his defence; to examine or have examined witnesses against him ...

- 2 Pavan has recently lost his job. He decides to set up as a taxi driver but he does not have a taxi driver's licence. He knows that if he parks on private land he does not need such a licence. He parks his taxi on the railway station forecourt knowing that there would always be passengers in need of a taxi. He discovers that he gets a lot of custom in this way. One day he is stopped by the police who ask him for his licence. He cannot show them his licence as he did not have one, but he said to the police that he did not need one. The police charged him with the offence of 'plying for hire in any street'.
- (a) Advise Pavan whether he is likely to be convicted of an offence. [10]
 - (b) Would he be convicted if he parked his car on the driveway of a friend who lives near the station? Give your reasons. [10]
 - (c) What rule of statutory interpretation will be used in this case? [10]
 - (d) Consider the different rules of interpretation and evaluate their usefulness to a court in interpreting legislation. [20]

Source material

Town Police Clauses Act 1847

Under this Act if the owner of a vehicle is found 'plying for hire in any street' or trying to get passengers openly in any street without a licence displayed on his vehicle then he shall be guilty of an offence.

Eastbourne Borough Council v Stirling [2000]

Mr Stirling was prosecuted by Eastbourne Borough Council for 'plying for hire in any street' when he parked his taxi on a railway station forecourt without a licence. The railway station forecourt was private property but the court held that it was so close to any street that he could attract pedestrians who were passing by. The court held that whenever a driver positioned his vehicle so that the offer of services was aimed at people passing by in the street an offence would be committed.

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