

THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 3 – CRIMINAL LAW*

Time allowed: 1 hour and 30 minutes plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEx qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

SECTION A

(Answer ALL questions in Section A)

1. Explain the meaning of transferred malice. **(2 marks)**
2. Explain the requirement for the *actus reus* and *mens rea* to coincide. **(3 marks)**
3. Define the *actus reus* of basic criminal damage. **(3 marks)**
4. Define the *mens rea* of murder. **(4 marks)**
5. What is the effect of a successful partial defence of 'loss of control' on a charge of murder? **(2 marks)**
6. Identify the **three** situations where a defendant's act will not be regarded as dishonest under the Theft Act 1968. **(3 marks)**
7. Define the *mens rea* of criminal attempt. **(3 marks)**
8. Identify **three** circumstances in which the defence of duress will fail. **(3 marks)**
9. Identify the **three** situations in which the law allows a person to use force in self-defence. **(3 marks)**
10. Identify **four** areas of activity regulated by strict liability. **(4 marks)**

(Total Marks for Section A: 30 marks)

SECTION B

(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)

Scenario 1

Alex saw that his next-door neighbour, Dimitri, had bought a new lawnmower. One night, after drinking heavily, Alex decided to steal the lawnmower, as his own lawnmower had stopped working and he could not afford a new one. He jumped over the fence dividing their gardens and walked towards the end of the garden, where Dimitri kept the lawnmower. Alex then removed the cover and took the lawnmower.

The dividing fence belongs to Dimitri. Alex struggled to lift the lawnmower over the fence, because the lawnmower was very heavy. Alex dropped the lawnmower onto the fence and broke a fence post. Hearing the noise, Dimitri woke up, opened his first-floor bedroom window, and shouted threateningly at Alex. Alex immediately felt guilty about what he had done, so he put the lawnmower back, then returned to the fence and tried to mend the post.

Dimitri, still leaning out of the first-floor window, continued to threaten Alex. Alex was afraid that Dimitri might come downstairs and attack him. Alex decided to try to prevent Dimitri from coming into the garden. Alex took a can of petrol from Dimitri's shed. He poured petrol over the wooden patio doors of Dimitri's house and set fire to them, to try to stop Dimitri coming out of his house.

Scenario 1 Questions

1. In relation to the lawnmower:

(a) identify the offence, and the elements of the offence, with which Alex may be charged;

(4 marks)

(b) explain how the elements of the offence apply to Alex;

(6 marks)

(c) explain the defence of intoxication and whether or not this defence is likely to be successful.

(10 marks)

(Total: 20 marks)

2. In relation to the fence post:

(a) identify the offence and the elements of the offence with which Alex may be charged;

(5 marks)

(b) explain how the elements of the offence may apply to Alex.

(5 marks)

(Total: 10 marks)

3. In relation to the patio doors:

(a) identify the offence and the elements of the offence with which Alex may be charged;

(5 marks)

(b) explain how the elements of the offence apply to Alex.

(5 marks)

(Total: 10 marks)

(Total Marks for Scenario 1: 40 marks)

Scenario 2

Two years ago, Georgia and Ben had their first child. Georgia was diagnosed with post-natal depression and has been taking medication for this since that time. Her doctor also prescribed sleeping pills.

Recently, Ben noticed that Georgia was acting strangely, so he took her to see her doctor. Her doctor is carrying out some tests on Georgia, and thinks that she may have schizophrenia. Georgia is the type of person who is also easily upset, and she and Ben argued a lot about bills, money and their relationship in general.

Last month, Ben was told that he might be made redundant in the near future. As a result of this, the arguments between Georgia and Ben became more frequent. Both were finding life to be more of a struggle than ever before, and Georgia felt that this was making her depression worse.

Last week, after a particularly heated argument between them, Georgia sank into a deep depression, and decided that she would be better off without Ben. She prepared an evening meal and put some of her sleeping pills in Ben's food. Shortly after finishing his meal, the effects of the sleeping pills took hold, and Ben fell into a deep sleep on the sofa in the living room. Once Georgia was certain that Ben was asleep, she put a cushion over his face and suffocated him.

Georgia instantly regretted killing Ben. She immediately phoned the police and admitted to them what she had done.

Scenario 2 Questions

1. In relation to Georgia's actions:

(a) identify the offence and the elements of the offence that has been committed;

(7 marks)

(b) explain how the elements of the offence apply to Georgia;

(5 marks)

(c) explain how the principles of causation may apply to Georgia's actions.

(8 marks)

(Total: 20 marks)

2. (a) Identify and explain which partial defence Georgia may be able to rely on.

(5 marks)

(b) Explain whether this partial defence is likely to be successful and why.

(5 marks)

(Total: 10 marks)

3. Assume, for the purposes of this question, that Ben did not die and did not suffer any injuries.

(a) Identify the offence and the elements of the offence with which Georgia may be charged.

(6 marks)

(b) Explain how the elements of the offence apply to Georgia.

(4 marks)

(Total: 10 marks)

(Total Marks for Scenario 2: 40 marks)

Scenario 3

Sylvie, Andy and Dave met at a party held in a cottage in a remote part of the countryside. Sylvie left her handbag on a table in the kitchen, while she went to the bathroom. Andy opened the handbag and took out Sylvie's purse. He was putting the purse in his pocket, when Sylvie returned. She grabbed hold of Andy and tried to wrestle the purse from his hand. Andy broke free and ran off with the purse.

Sylvie accused Dave of standing by and not helping. She hit Dave in the stomach. The force of the blow caused Dave to lose his balance. He fell over and hit his head on the stone floor. Unknown to Sylvie, Dave suffered from brittle bones. He fractured his skull in the fall.

Someone phoned the emergency services for help. The local hospital sent an air ambulance helicopter. When it arrived, Dave said he did not like flying. It took a further 30 minutes to convince him to get into the helicopter, by which time his condition had significantly worsened.

Sylvie went with him in the air ambulance helicopter to the hospital. On arrival, the on-duty emergency doctor examined Dave, but failed to correctly diagnose Dave's condition. Dave died a short time later.

Sylvie was very upset and decided to leave the hospital. She grabbed her belongings from a chair, including what she believed was her phone. The one she picked up actually belonged to Dave. Sylvie's phone, which is identical to Dave's, was in her handbag.

Scenario 3 Questions

1. In relation to Sylvie using force against Andy, identify the defence which she could use and explain the elements of that defence.

(5 marks)

2. Explain how the elements of the defence apply to Sylvie.

(5 marks)

3. In relation to Dave's death:

- (a) identify the offence and the elements of the offence with which Sylvie may be charged;

(6 marks)

- (b) explain how the elements of the offence apply to Sylvie.

(4 marks)

(Total: 10 marks)

4. Explain how Sylvie has caused Dave's death.

(10 marks)

5. If Sylvie is charged with theft of the phone:

- (a) describe the general defence that may be available to her;

(6 marks)

- (b) explain whether this general defence is likely to be successful.

(4 marks)

(Total: 10 marks)

(Total Marks for Scenario 3: 40 marks)

End of Examination Paper