

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.

SECTION A

(Answer ALL questions in Section A)

1. Define *mens rea*.

(2 marks)
2. Identify the **two** circumstances when an omission will result in criminal liability.

(2 marks)
3. Explain the *mens rea* of aggravated criminal damage.

(4 marks)
4. Explain the offence of arson.

(4 marks)
5. Describe the elements of the partial defence of diminished responsibility.

(3 marks)
6. Define the term 'dishonesty' under the Theft Act 1968.

(3 marks)
7. Define what is meant by 'strict liability'.

(2 marks)
8. Explain the *mens rea* of the offence of attempt.

(4 marks)
9. Explain the circumstances in which involuntary intoxication can be a defence.

(3 marks)
10. Identify the requirements of the defence of mistake, using a case or an example to illustrate your answer.

(3 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

Adam, aged 15, was on his way to school one hot sunny morning. He passed a house where he saw a wooden garden fence that had caught fire. There was no one around and Adam saw that the fire was starting to spread rapidly towards a garden shed, which was situated next to the fence.

Adam decided that there was no time to raise the alarm. He kicked down the part of the fence that had not yet caught fire, in order to prevent the fire from spreading to the shed.

Jared, the owner of the fence, heard the commotion and came out of his house into the garden. Thinking that Adam had caused the fire, Jared walked towards Adam, shouting at him as he did so. As Jared got closer, Adam thought he was about to be attacked, so he punched Jared in the stomach and ran off.

Adam arrived at school shortly afterwards. While walking along the corridor to the classroom, he realised that he had forgotten his lunch. He did not have time to go back home to get it. He knew that a classmate, Becky, normally left her sandwiches in her tray on top of her locker in the corridor. As he knew she would not consent, he decided to take them without telling her. Adam went to Becky's locker, reached up to the tray, took her sandwiches and put them in his pocket. He was about to walk off, when he saw Becky at the far end of the corridor coming towards him. Adam quickly put the sandwiches back in the tray on top of the locker.

Turn over

Scenario 1 Questions

1. In relation to Adam kicking down the fence:

(a) identify the offence and the elements of the offence which may have been committed;

(5 marks)

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

(4 marks)

(c) explain the defence which Adam could raise and whether it would be successful.

(6 marks)

(Total: 15 marks)

2. In relation to Adam punching Jared:

(a) identify and explain the elements of the defence which Adam may have;

(8 marks)

(b) explain how the elements of the defence apply to Adam.

(6 marks)

(Total: 14 marks)

3. In relation to the sandwiches:

(a) identify the offence and the elements of the offence which Adam may have committed;

(5 marks)

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

(6 marks)

(Total: 11 marks)

(Total Marks for Scenario 1: 40 marks)

Scenario 2

Dave has two sons, Henry (aged 8) and Joel (aged 15). Dave began beating Henry when Henry was very young. He would regularly beat Henry severely in front of Joel. The beatings resulted in Henry having to be admitted to hospital on several occasions.

Joel often tried to protect his younger brother, but this did not prevent Dave from regularly beating Henry. As a result, Joel became increasingly anxious. One day, fearing that Dave was going to beat Henry, Joel decided that Dave should never be able to do so again.

Joel went to the local hardware store and bought a large sachet of liquid rat poison. The next day, Dave prepared some soup and put it in his flask, ready to take to work. When Dave was out of the room, Joel opened the flask and poured the full contents of the sachet into the soup. He stirred it thoroughly so it mixed well, then placed the cap back on the flask. Dave then took the flask to work.

Dave drank the soup that afternoon at work, and soon became very ill. Dave's work colleagues called an ambulance and he was subsequently rushed to hospital.

At the hospital, the emergency doctor, Dr Smith, was very busy and did not give any thought to the possibility that Dave might have been poisoned, so she did not conduct any tests to find out the cause of his illness. Later that day, the doctor decided to monitor Dave's condition, to see if it was improving. However, Dave's health slowly became worse, and he died two days later due to the poisoning.

Turn over

Scenario 2 Questions

1. (a) Identify the offence and the elements of the offence which Joel may have committed.

(7 marks)
- (b) Explain how the elements of the offence apply to Joel.

(5 marks)
- (c) Explain whether Joel has caused Dave's death.

(8 marks)
(Total: 20 marks)

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

(8 marks)
- (b) Explain whether this partial defence is likely to be successful in Joel's case.

(6 marks)
(Total: 14 marks)

Assume, for the purposes of the following question, that Dave did not drink the soup but gave it to a work colleague, who drank it and subsequently died from poisoning.

3. (a) Explain the legal principle which might operate in relation to the death of the work colleague.

(3 marks)
- (b) Explain how the principle may apply to Joel for the death of Dave's work colleague.

(3 marks)
(Total: 6 marks)

(Total Marks for Scenario 2: 40 marks)

Scenario 3

Sonia and Mikhail were out for a stroll one day, walking by the local river. While standing at the water's edge, they began arguing about money and Sonia, in frustration, punched Mikhail on the shoulder. He then lost his balance on the muddy riverbank, and fell into the river. Although he was a good swimmer, the current was fast and Mikhail ended up being swept downstream.

Sonia ran downstream to see if she could get some help. Mikhail desperately tried to swim to the riverbank, but could not reach it. Sonia then lost sight of him, and after desperately searching for him, found him unconscious by the riverbank.

Sonia called for an ambulance, which arrived shortly afterwards and took both of them to the nearest hospital. Mikhail had swallowed a lot of water and his state of unconsciousness had caused brain damage. As a result, Mikhail stopped breathing and died. Dr Jones, the anaesthetist, certified the death at the hospital.

Later that day, while he was still on duty, Dr Jones was called, at short notice, to be the anaesthetist in an operation for Patrick, another patient. During the operation, Dr Jones failed to realise that the tube connecting the oxygen supply to Patrick had become detached. As a result of this, Patrick was starved of oxygen and died during the operation.

Meanwhile, Sonia returned home and began drinking heavily. After consuming two bottles of wine, she decided to go to the local off-licence to get another bottle. Once in the off-licence, Sonia realised that she had forgotten her purse and had no money, but she decided to take a bottle of wine anyway. Sonia took a bottle of wine from the display cabinet, hid it under her coat, and left without paying.

Scenario 3 Questions

1. In relation to Mikhail's death:

(a) identify the offence and the elements of the offence which Sonia may have committed;

(7 marks)

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

(5 marks)

(Total: 12 marks)

2. (a) Identify the offence and the elements of the offence which Dr Jones may have committed.

(10 marks)

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

(8 marks)

(Total: 18 marks)

3. Sonia is charged with the theft of the wine.

(a) Identify and explain the defence which may be available to Sonia.

(7 marks)

(b) Explain how the defence applies to Sonia.

(3 marks)

(Total: 10 marks)

(Total Marks for Scenario 3: 40 marks)

End of Examination Paper