



## 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**

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## SECTION A

### (Answer ALL questions in Section A)

1. Identify the **three** principal types of *mens rea*.  
**(3 marks)**
2. Explain transferred malice.  
**(3 marks)**
3. Explain the meaning of arson.  
**(3 marks)**
4. Identify the elements required to establish unlawful act manslaughter.  
**(3 marks)**
5. Define the test used to establish dishonesty in theft.  
**(3 marks)**
6. Define the *actus reus* **and** *mens rea* of criminal attempt.  
**(4 marks)**
7. Define strict liability and give an example of a strict liability offence.  
**(3 marks)**
8. Identify any **three** special categories where a duty to act arises.  
**(3 marks)**
9. Define factual causation.  
**(3 marks)**
10. In which **two** circumstances would the defence of duress be unsuccessful?  
**(2 marks)**

**(Total Marks for Section A: 30 marks)**

**Turn over**

## **SECTION B**

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

### **Scenario 1**

Leo was a live-in carer for his younger brother, Vlad. Vlad had been born with serious physical disabilities and learning difficulties. He needed constant care. Once their parents grew old, Leo became the primary carer for Vlad. While Leo deeply cared for his brother, at times, he would leave Vlad alone in the house while he went out with his friends. Leo knew that Vlad found being left alone stressful but Leo said he needed his free time too.

One evening, Leo went out to a party with a friend, Tom. He knew he should have returned home in the evening to check on Vlad and to give him his evening medicines, but he was having a great time and did not want to leave in the middle of the party. Leo decided to stay out, and he only returned home the next afternoon. When he arrived home, he found Vlad unconscious on the floor. Vlad had suffered a seizure due to missing his medication and he had collapsed. Leo called an ambulance but the ambulance took two hours to arrive. When it arrived, it was too late. Vlad had died.

Leo felt guilty that he had stayed out all night and he blamed Tom. The following week, Leo saw Tom in the street and hit him. Tom, fearing that Leo would seriously injure him, punched and kicked Leo repeatedly. Leo had to be taken to hospital. On examination, it was discovered that Leo's jaw had been broken.

## Scenario 1 Questions

1. In relation to Vlad's death:

(a) identify and define the elements of the offence with which Leo might be charged;

**(7 marks)**

(b) explain whether the elements of the offence have been established in relation to Leo (Do not consider the impact of the ambulance delay);

**(5 marks)**

(c) explain whether Tom has any liability for Vlad's death.

**(4 marks)**

**(Total: 16 marks)**

2. In relation to causing Vlad's death:

(a) explain what is required to establish legal causation, using relevant case law;

**(4 marks)**

(b) explain the circumstances in which the chain of causation can be broken;

**(6 marks)**

(c) explain whether the delay in the arrival of the ambulance broke the chain of causation.

**(4 marks)**

**(Total: 14 marks)**

3. In relation to Leo's injuries:

(a) describe any defence Tom might have;

**(6 marks)**

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

**(4 marks)**

**(Total: 10 marks)**

**(Total Marks for Scenario 1: 40 marks)**

**Turn over**

## **Scenario 2**

Nandita was devastated when her husband, Gautam, left her for another woman, Ramya. Following the separation, Nandita had to move out of the family home. Soon after, Ramya moved in to live with Gautam in the family home. Nandita was very upset after finding out that Ramya had moved into the house before the divorce had been finalised.

Nandita was jealous of Ramya and decided to take revenge. One day, she went to the family home and saw Ramya's car parked outside. Nandita scratched the bodywork on the car with a key.

One week later, Nandita returned to the house. She waited until Ramya and Gautam had left for work in the morning. Nandita knew that, as a keen gardener, Ramya spent most of her spare time in the back garden and often used the back door. Nandita went round to the back of the house and smeared oil all over the steep steps from the back door to the garden.

After smearing the oil and checking that the steps were slippery, Nandita left. As she was leaving the property, she saw a pair of garden ornaments in the front garden. Realising that the ornaments must have been bought by Ramya, she took them, and on the way home, Nandita threw the ornaments in a nearby bin.

## Scenario 2 Questions

1. In relation to scratching Ramya's car:

(a) explain the *actus reus* and *mens rea* of the offence with which Nandita may be charged;

**(6 marks)**

(b) explain whether Nandita has the required *actus reus* and *mens rea* of the offence.

**(5 marks)**

**(Total: 11 marks)**

2. In relation to smearing the oil on the steps from the back door to the garden:

(a) explain the *actus reus* and *mens rea* of aggravated criminal damage;

**(6 marks)**

(b) explain whether Nandita has the required *actus reus* and *mens rea* for aggravated criminal damage;

**(6 marks)**

(c) explain whether it is relevant to establishing liability for aggravated criminal damage that Nandita jointly owned the property as the divorce had not yet been finalised.

**(3 marks)**

**(Total: 15 marks)**

3. In relation to the garden ornaments:

(a) identify the offence with which Nandita may be charged and define the *actus reus* and *mens rea* of the offence;

**(8 marks)**

(b) explain whether Nandita has the required *actus reus* and *mens rea* of the offence.

**(6 marks)**

**(Total: 14 marks)**

**(Total Marks for Scenario 2: 40 marks)**

**Turn over**

### Scenario 3

Fran and Giles have been married for ten years. Their marriage was a happy one until Giles was made redundant. After Giles lost his job, Fran and Giles constantly argued and their relationship became strained.

Due to the stress of unemployment and marital difficulties, Giles also suffered from sexual impotency. One evening, after a few drinks, he told Fran that she should have sexual intercourse with his friend, Dan. Some months later, during an argument, Fran told him that she and Dan were having an affair. Giles was furious and shouted that he had not been serious in his suggestion and that she was a bad wife. Upset at Giles's reaction, Fran shouted back and said that Giles was 'not a real man'. She also reminded him of his sexual inadequacy and his prolonged unemployment. Giles grabbed a glass bottle that was nearby and hit her with it. Fran fell to the floor, unconscious.

Consider Giles's criminal liability in respect of **both of the following alternative situations (i) and (ii)**:

- (i)** Giles left the house and went for a walk. Fran recovered consciousness, went to bed and fell asleep. Giles returned home about an hour later. He took a large knife from the kitchen and stabbed Fran while she was sleeping. Fran died from her injuries.
  
- (ii)** On being struck with the bottle, Fran died immediately.

### Scenario 3 Questions

1. In **situation (i)**, whereby Giles went for a walk and returned home to stab Fran:

(a) explain the elements of the offence with which Giles may be charged;

**(6 marks)**

(b) explain whether the required elements of the offence have been established in relation to Giles;

**(4 marks)**

(c) Assume, for the purpose of this part of the question **only**, that when Giles went for a walk, he went to a public house and had several alcoholic drinks.

Explain any defence Giles may be able to rely on.

**(4 marks)**

**(Total: 14 marks)**

2. In **situation (ii)**, where Fran died immediately:

(a) identify the partial defence Giles may be able to rely on;

**(2 marks)**

(b) define the partial defence Giles may be able to rely on, using relevant statute and case law;

**(10 marks)**

(c) explain whether Giles will be able to rely on the partial defence, with reference to relevant case law.

**(7 marks)**

**(Total: 19 marks)**

3. In relation to partial defences:

(a) explain which offence Giles would be convicted of if the partial defence is successful;

**(4 marks)**

(b) explain the offence Giles would be convicted of if the defence is not successful;

**(1 mark)**

(c) Explain the effect on sentencing if the partial defence is:

(i) successful;

**(1 mark)**

(ii) unsuccessful.

**(1 mark)**

**(Total: 7 marks)**

**(Total Marks for Scenario 3: 40 marks)**

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