

To be taken only between ... and ... 2012

AS GCE LAW

G153/01/I: Criminal Law

Candidates answer on the Answer Booklet

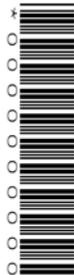
OCR Supplied Materials:

- 18-page Answer Booklet

Duration: 2 hours

Other Materials Required:

None



INSTRUCTIONS TO CANDIDATES

- Write your name, centre number and candidate number in the spaces provided on the Answer Booklet. Please write clearly and in capital letters.
- Use black ink. HB Pencil may be used for graphs and diagrams only.
- Read each question carefully. Make sure you know what you have to do before starting your answer.
- Answer **three** questions; **one** from Section A, **one** from Section B and **one** from Section C
- When answering the following questions you are required to demonstrate some synoptic thinking. In Section A this is achieved by relevant reference to precedent and/or statutory materials including the development of law and comments on justice or morality where appropriate. In Section B this is achieved by relevant use of precedent and/or statutory materials in the application of legal reasoning to given factual situations, including comment on the justice or morality of the outcome where appropriate. You are not required to demonstrate synoptic thinking in Section C.
- If additional space is required, you should use pages 14 to 16 of the Answer Booklet. If you use additional sheets of paper, fasten these securely to the Answer Booklet.
- Do **not** write in bar codes.

INFORMATION FOR CANDIDATES

- The number of marks is given in brackets [] at the end of each question or part question.
- The total number of marks for this paper is **120**.
- Candidates are reminded of the need to write in continuous prose, where appropriate, in answering **Section A** and **Section B** questions you will be assessed on the quality of your written communication (QWC) including your use of appropriate legal terminology. These questions are marked with an asterisk (*).
- This document consists of **8** pages. Any blank pages are indicated.



Answer **three** questions.

Answer **one** question from Section A, **one** question from Section B and **one** question from Section C.

You are advised to spend 50 minutes on Section A, 50 minutes on Section B and 20 minutes on Section C.

SECTION A

Answer only **one** question from this section.

1* 'Strict liability offences are an exception to the general rule that the prosecution has the burden of proving that a person accused of a crime possesses the relevant guilty mind.'

Discuss, in the light of the above statement, whether you agree that the creation of strict liability offences can ever be justified. **[50]**

Start your answer on **page 2** of the Answer Booklet.

2* Discuss whether the rules governing insanity as a defence in criminal law are in a satisfactory condition. **[50]**

Start your answer on **page 2** of the Answer Booklet.

3* Consider whether the current law relating to attempted crimes strikes the right balance between protecting society and convicting only those who deserve to be punished. **[50]**

Start your answer on **page 2** of the Answer Booklet.

SECTION B

Answer only **one** question from this section.

4* Victoria is the wife and assistant of a knife throwing expert, Carl. Both Carl and Victoria work for a circus. Carl is renowned for his hot temper and has recently been off work suffering from depression. Their act consists of Victoria being strapped to a board whilst Carl throws twenty knives all around her from a distance of five metres to within as little as ten centimetres of her body. They have been doing this for many years without a single mishap and Carl regards his technique as perfect. One evening, just before their act begins, Victoria tells Carl that she is having an affair with the lion tamer, Wayne. Carl is shocked and enraged but immediately the fanfare strikes up for the start of their act and Carl and Victoria enter the ring to start their performance. The third knife Carl throws goes straight into Victoria's heart, killing her instantly.

Discuss Carl's liability for Victoria's death.

[50]

Start your answer on **page 10** of the Answer Booklet.

5* Carol and Diana decide to go out 'clubbing' for the night. They meet at Carol's house and begin the evening by drinking half a bottle of vodka. They then go out and have some more drinks in a pub and they each take an ecstasy tablet which Diana has brought with her. As they are leaving the pub, Carol takes a leather jacket from the back of a chair, mistaking it for her own very similar jacket which she has, in fact, left at home. By the time that they arrive at the club, both girls are suffering from hallucinations. When the doorman, Barry, asks them for identity, Diana, who thinks Barry is an alien who wants to transport her to another planet, pokes him in the eye with her finger and then hits him over the head with her umbrella, knocking him unconscious.

Consider the offences that Carol and Diana may have committed and whether they may have any defences available to them.

[50]

Start your answer on **page 10** of the Answer Booklet.

6* Emma hires Fred, a qualified electrician, to re-wire her house. She is unhappy when she notices sparks coming from the switches as she turns some lights on or off. Emma complains to Fred who returns to do some checks. He assures her that everything is in order and perfectly safe. The next morning, Emma goes to take a shower in the bathroom. When she turns on the shower control, she receives an electric shock that causes her to fall and bang her head, knocking her unconscious. Fortunately, her friend, Gita, arrives almost immediately and discovers Emma. Gita calls an ambulance and Emma is rushed to hospital. While Emma is still critically ill she develops an infection.

Hugh, a junior doctor employed by the hospital, fails to read Emma's medical notes properly. The notes clearly show that Emma is allergic to penicillin. Hugh gives Emma penicillin to treat the infection. As a result of her allergy Emma dies.

Discuss the liability of Fred and Hugh for Emma's death.

[50]

Start your answer on **page 10** of the Answer Booklet.

SECTION C

Answer only **one** question from this section.

7 John enters a supermarket intending to steal some food. He is in the shop when he notices that the door to the manager's office is open. He goes inside hoping to find something of value. There is no one present but, as he is about to leave, he notices a wallet lying on the manager's desk. John picks the wallet up and takes a £20 note out of it. The manager, Sue, sees him leaving the office and shouts at him. John pushes Sue aside and runs out of the store.

Evaluate the accuracy of **each** of the four statements A, B, C and D individually, as they apply to the facts in the above scenario.

Start your answer on **page 18** of the Answer Booklet.

Statement A: John is guilty of burglary under S.9(1)(a) Theft Act 1968.

Statement B: John is guilty of theft under S.1 Theft Act 1968.

Statement C: John is guilty of robbery under S.8 Theft Act 1968.

Statement D: John is guilty of burglary under S.9(1)(b) Theft Act 1968.

[20]

8 Wayne is the captain of the Northport United football team. During an important match against their local rivals, Wayne is involved in a clash of heads in an incident with an opposing player, Andrew. Wayne receives a nasty bruise above his left eye and is badly concussed. Wayne insists on continuing after treatment with a cold sponge but is obviously still in a very dazed condition. A few minutes later Wayne jumps wildly into a foul tackle on Andrew. Andrew is carried off in agony and x-rays later reveal that he has a broken ankle.

Evaluate the accuracy of **each** of the four statements A, B, C and D individually, as they apply to the facts in the above scenario.

Start your answer on **page 18** of the Answer Booklet.

Statement A: Andrew is liable for ABH S.47 OAPA 1861 for the bruise suffered by Wayne.

Statement B: Wayne is liable for GBH S.18 OAPA 1861 for the broken ankle sustained by Andrew.

Statement C: Andrew has a defence of consent for any charge brought by Wayne.

Statement D: Wayne has a defence of automatism for any charge brought by Andrew.

[20]

Section C Total [20]

Paper Total [120]

SPECIMEN

BLANK PAGE

SPECIMEN

SPECIMEN

SPECIMEN

Copyright Acknowledgements

Permission to reproduce items where third-party owned material protected by copyright is included has been sought and cleared where possible. Every reasonable effort has been made by the publisher (OCR) to trace copyright holders, but if any items requiring clearance have unwittingly been included, the publisher will be pleased to make amends at the earliest opportunity.

OCR is part of the Cambridge Assessment Group. Cambridge Assessment is the brand name of University of Cambridge Local Examinations Syndicate (UCLES), which is itself a department of the University of Cambridge.

OXFORD CAMBRIDGE AND RSA EXAMINATIONS

Advanced GCE

LAW

[Q153MS]

Unit G153: Criminal Law

Specimen Mark Scheme

This mark scheme must be used in conjunction with the Advanced GCE Law Assessment Grid.

Candidates answering these questions are required to demonstrate some synoptic thinking. In Section A this is achieved by relevant reference to precedent and/or statutory materials including the development of law and comments on justice or morality where appropriate. In Section B this is achieved by relevant use of precedent and/or statutory materials in the application of legal reasoning to given factual situations, including comment on the justice or morality of the outcome where appropriate. Candidates are not required to demonstrate synoptic thinking in Section C.

When using the mark scheme the points made are merely those that a well-prepared candidate would be likely to make. The cases cited in the scheme are not prescriptive and credit must be given for any relevant examples given. Similarly, candidates who make unexpected points, perhaps approaching the question from an unusual point of view, must be credited with all that is relevant. Candidates can score in the top bands without citing all the points suggested in the scheme. Answers which contain no relevant material at all, will receive no marks. Reward grammar, spelling and punctuation.

*This mark scheme contains indicative content but it is not exhaustive or prescriptive. It should be used alongside the matrix of levels of assessment and live exemplar standardisation scripts (which cover a range of responses identifying where within a level of assessment a particular response lies). Examiners are required to use the indicative content of the mark schemes **only** in conjunction with the matrix of levels of assessment as informed by actual responses in the standardisation scripts. Examiners should not be drawn prescriptively and quantitatively to the content of the mark scheme when marking candidates' responses and should follow the specific guidance provided by the Principal Examiner in terms of breadth and depth of responses. Appropriate credit will be given for non-standard answers.*

SECTION A																												
Question Number	Answer			Max Mark																								
1	<p>'Strict liability offences are an exception to the general rule that the prosecution has the burden of proving that a person accused of a crime possesses the relevant guilty mind.'</p> <p>Discuss, in the light of the above statement, whether you agree that the creation of strict liability offences can ever be justified.</p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO1</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 5</td> <td>21-25</td> <td>17-20</td> <td>-</td> </tr> <tr> <td>Level 4</td> <td>16-20</td> <td>13-16</td> <td>5</td> </tr> <tr> <td>Level 3</td> <td>11-15</td> <td>9-12</td> <td>4</td> </tr> <tr> <td>Level 2</td> <td>6-10</td> <td>5-8</td> <td>3</td> </tr> <tr> <td>Level 1</td> <td>1-5</td> <td>1-4</td> <td>1-2</td> </tr> </tbody> </table> <p>Potential answers MAY:</p> <p>Assessment Objective 1</p> <p>Define the concept of strict liability by reference to the lack of requirement of <i>mens rea</i>. Demonstrate knowledge of the relevant principles relating to strict liability. Explain the emphasis given to the common law presumption of <i>mens rea</i> e.g. <i>Sweet v Parsley, B v DPP</i>. Explain the statutory nature of strict liability offences. Explain the significance of statutory interpretation in this context. Recognise the summary nature of strict liability offences. Provide examples of strict liability offences – road traffic, licensing, food safety, pollution etc. Elaborate the examples by reference to appropriate cases e.g. <i>Sherras v De Rutzen, Alphacell, Smedleys v Breed, James and Son v Smees</i> etc. Refer to the distinction between 'absolute' and 'strict' liability. Give examples of 'no-negligence' / 'due diligence' defences. Refer to some of the social benefits claimed or injustices caused e.g. the regulatory nature or administrative convenience or the possible injustice of imposition of liability without fault e.g. 'spiking' of drinks or 'planting' of drugs e.g. <i>Warner, Gammon, Storkwain, Lim Chin Aik</i> etc.</p> <p>Assessment Objective 2</p> <p>Discuss the potential unfairness of such offences by a consideration of some of the potential injustices arising from a willingness to dispense with proof of a 'guilty mind':</p> <ul style="list-style-type: none"> • Too much inconsistent use of discretion used by prosecuting agencies (more parliamentary guidance as to fault element preferable?) / conviction of the morally innocent is never justifiable / public respect for the criminal law is potentially undermined by dubious prosecutions / room for the development of criminal responsibility based on negligence? <p>Discuss some of the following 'benefits':</p> <ul style="list-style-type: none"> • Protection of society from harmful acts / the 'quasi-criminal' nature of strict liability offences creates little stigma / regulatory nature, promotes high standards of care in socially important activities / practical effectiveness i.e. too many polluted rivers, too many drunk drivers as it is / administrative convenience, difficulty of establishing <i>mens rea</i> in many such cases removed etc. 			Mark Levels	AO1	AO2	AO3	Level 5	21-25	17-20	-	Level 4	16-20	13-16	5	Level 3	11-15	9-12	4	Level 2	6-10	5-8	3	Level 1	1-5	1-4	1-2	[25]
Mark Levels	AO1	AO2	AO3																									
Level 5	21-25	17-20	-																									
Level 4	16-20	13-16	5																									
Level 3	11-15	9-12	4																									
Level 2	6-10	5-8	3																									
Level 1	1-5	1-4	1-2																									
				[20]																								

SECTION A [continued]																												
Question Number	Answer			Max Mark																								
1 cont'd	<p>Assessment Objective 3</p> <p><i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i></p> <p><i>Reward grammar, spelling and punctuation.</i></p> <p style="text-align: right;">Total marks</p>			[5] [50]																								
2	<p>Discuss whether the rules governing insanity as a defence in criminal law are in a satisfactory condition.</p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO1</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 5</td> <td>21-25</td> <td>17-20</td> <td>-</td> </tr> <tr> <td>Level 4</td> <td>16-20</td> <td>13-16</td> <td>5</td> </tr> <tr> <td>Level 3</td> <td>11-15</td> <td>9-12</td> <td>4</td> </tr> <tr> <td>Level 2</td> <td>6-10</td> <td>5-8</td> <td>3</td> </tr> <tr> <td>Level 1</td> <td>1-5</td> <td>1-4</td> <td>1-2</td> </tr> </tbody> </table> <p>Potential answers MAY:</p> <p>Assessment Objective 1</p> <p>Define the essential elements of the defence of insanity; the <i>McNaghten Rules</i>.</p> <p>Explain that insanity is also a legal definition which has been broadened to cover the operation of the mind in all its aspects – <i>Sullivan; Bratty v A-G for NI</i> etc. the policy of controlling dangerous offenders.</p> <p>Explain that DR is also a special and partial defence to a charge of murder only but sanity is a general defence to all crimes, identifying that 'abnormality of mind' means what the jury would term 'abnormal' – <i>Byrne S2 Homicide Act 1957</i>.</p> <p>Explain that insanity may be raised by the prosecution or judge as well as the defence.</p> <p>Explain the relationship between insanity and automatism and the danger of diabetics, epileptics etc. falling within the terms of the definition of insanity; <i>Quick; Hennessey</i> etc.</p> <p>Explain the widened powers of disposition given to the court by the <i>Criminal Procedure (Insanity and Unfitness to Plead) Act 1991</i> upon a finding of 'not guilty owing to insanity' noting that on a murder charge hospitalisation will ensue.</p> <p>Explain the relative frequency of pleas of DR compared with the rarity of insanity pleas.</p>			Mark Levels	AO1	AO2	AO3	Level 5	21-25	17-20	-	Level 4	16-20	13-16	5	Level 3	11-15	9-12	4	Level 2	6-10	5-8	3	Level 1	1-5	1-4	1-2	[25]
Mark Levels	AO1	AO2	AO3																									
Level 5	21-25	17-20	-																									
Level 4	16-20	13-16	5																									
Level 3	11-15	9-12	4																									
Level 2	6-10	5-8	3																									
Level 1	1-5	1-4	1-2																									

SECTION A [continued]																												
Question Number	Answer			Max Mark																								
2 cont'd	<p>Assessment Objective 2</p> <p>Discuss the definition of insanity and criticise the antiquity and operation of the plea of insanity despite the mitigating effect of the 1991 Act.</p> <p>Discuss the reluctance of courts to recognise automatism as a complete defence if it could mean releasing potentially dangerous people back into society.</p> <p>Discuss the unavailability of insanity to the psychopath, with the availability of a plea of DR to a psychopath charged with murder – <i>Byrne</i>.</p> <p>Discuss the problems posed for jurors faced with technical psychiatric terminology.</p> <p>Discuss the fact that the defences are effectively established or rebutted by medical experts rather than being decided upon by jurors – doctors should not be delivering opinions on legal or moral responsibility which are essentially jury issues.</p> <p>Discuss the social stigma that can attach to an epileptic etc. from a finding of 'not guilty owing to insanity'.</p> <p>Discuss the potential for jury confusion and misapplication owing to emotional considerations, sympathy or crude 'gut reaction' e.g. <i>Peter Sutcliffe – the 'Yorkshire Ripper'</i> – where psychiatric evidence was unanimous in agreeing he was a paranoid schizophrenic yet he was convicted of murder.</p> <p>Discuss proposals for reform e.g. <i>Butler Committee 1975</i> and <i>Law Commission Draft Criminal Code</i>.</p> <p>Assessment Objective 3</p> <p><i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i></p> <p><i>Reward grammar, spelling and punctuation.</i></p> <p style="text-align: right;">Total marks</p>			<p>[20]</p> <p>[5]</p> <p>[50]</p>																								
3	<p>Consider whether the current law relating to attempted crimes strikes the right balance between protecting society and convicting only those who deserve to be punished.</p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO1</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 5</td> <td>21-25</td> <td>17-20</td> <td>-</td> </tr> <tr> <td>Level 4</td> <td>16-20</td> <td>13-16</td> <td>5</td> </tr> <tr> <td>Level 3</td> <td>11-15</td> <td>9-12</td> <td>4</td> </tr> <tr> <td>Level 2</td> <td>6-10</td> <td>5-8</td> <td>3</td> </tr> <tr> <td>Level 1</td> <td>1-5</td> <td>1-4</td> <td>1-2</td> </tr> </tbody> </table> <p>Potential answers MAY:</p>			Mark Levels	AO1	AO2	AO3	Level 5	21-25	17-20	-	Level 4	16-20	13-16	5	Level 3	11-15	9-12	4	Level 2	6-10	5-8	3	Level 1	1-5	1-4	1-2	
Mark Levels	AO1	AO2	AO3																									
Level 5	21-25	17-20	-																									
Level 4	16-20	13-16	5																									
Level 3	11-15	9-12	4																									
Level 2	6-10	5-8	3																									
Level 1	1-5	1-4	1-2																									

SECTION A [continued]		
Question Number	Answer	Max Mark
3 cont'd	<p>Assessment Objective 1</p> <p>Refer to the 1981 Criminal Attempts Act so as to define the <i>actus reus</i> and <i>mens rea</i> of the offence.</p> <p>Recognise importance of establishing at what point a criminal intention can be said to have progressed to the stage of an attempt – <i>Geddes</i> etc.</p> <p>Cite relevant cases that provide principles applying the meaning of 'more than merely preparatory' these may include: <i>Widdowson</i>, <i>Gullefer</i>, <i>Campbell</i>, <i>Jones</i>, <i>Geddes</i> and <i>Tosti and White</i> etc.</p> <p>Recognise that aspects of attempting the impossible may very well refer to the practical and theoretical absence of an <i>actus reus</i> of any sort unless defined by the accused's belief and refer to Ss 1 (2) and (3) as well as <i>Haughton v Smith</i>, <i>Anderton v Ryan</i> and <i>Shivpuri</i>.</p> <p>Demonstrate an awareness of the Law Commission's report which preceded the Criminal Attempts Act and describe some of the questions considered by the Report; e.g. the desirability of striking a balance between the protection of the public from the social danger caused by the contemplation of crime and the individual freedom to think or even fantasise.</p> <p>Assessment Objective 2</p> <p>Consider the rationale of criminalising attempts.</p> <p>Consider the principle that a person ought not to be punished for merely contemplating the commission of offence.</p> <p>Consider some reference to 'proximity', 'equivocality' or 'last act' principles which may very well demonstrate the candidate's true understanding of the topic older relevant cases discussed might include <i>Robinson</i>, <i>Stonehouse</i> etc.</p> <p>Consider whether the decision in <i>Gullefer</i> reflects the wish expressed by the Law Commission that the point at which a course of conduct amounts to an offence is a matter of fact for the jury in each case using principles of common sense and that the older common law principles would not normally need to be considered in order for a jury to come to a conclusion about this.</p> <p>Consider the difficulties in defining at what precise point if any an attempt can be said to have occurred e.g. the problems in <i>Gullefer</i> and <i>Jones</i>.</p> <p>Refer to the House of Lords confusion over attempting the impossible in <i>Anderton v Ryan</i> and <i>Shivpuri</i>.</p> <p>Consider, for example, any possible alternatives e.g. the U.S. model of 'substantial steps... strongly corroborative of the actor's criminal purpose'.</p> <p>Consider whether it should be necessary e.g. in a case of attempted murder that the accused need go as far as pointing a gun at his / her intended victim etc. Would this limit the power of the police to intervene?</p> <p>Assessment Objective 3</p> <p><i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i></p> <p><i>Reward grammar, spelling and punctuation.</i></p>	<p>[25]</p> <p>[20]</p> <p>[5]</p> <p>Total marks [50]</p>

SECTION B																												
Question Number	Answer			Max Mark																								
4	<p>Victoria is the wife and assistant of a knife throwing expert, Carl. Both Carl and Victoria work for a circus. Carl is renowned for his hot temper and has recently been off work suffering from depression. Their act consists of Victoria being strapped to a board whilst Carl throws twenty knives all around her from a distance of five metres to within as little as ten centimetres of her body. They have been doing this for many years without a single mishap and Carl regards his technique as perfect. One evening, just before their act begins, Victoria tells Carl that she is having an affair with the lion tamer, Wayne. Carl is shocked and enraged but immediately the fanfare strikes up for the start of their act and Carl and Victoria enter the ring to start their performance. The third knife Carl throws goes straight into Victoria's heart, killing her instantly.</p> <p>Discuss Carl's liability for Victoria's death.</p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO1</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 5</td> <td>21-25</td> <td>17-20</td> <td>-</td> </tr> <tr> <td>Level 4</td> <td>16-20</td> <td>13-16</td> <td>5</td> </tr> <tr> <td>Level 3</td> <td>11-15</td> <td>9-12</td> <td>4</td> </tr> <tr> <td>Level 2</td> <td>6-10</td> <td>5-8</td> <td>3</td> </tr> <tr> <td>Level 1</td> <td>1-5</td> <td>1-4</td> <td>1-2</td> </tr> </tbody> </table> <p>Potential answers MAY:</p> <p>Assessment Objective 1</p> <p>Define the elements of the offence of murder recognising it as a common law offence.</p> <p>Define the defence of provocation under S.3 Homicide Act 1957.</p> <p>Demonstrate knowledge of the subjective and objective elements of S.3 by reference to relevant cases such as: <i>Duffy, Ibrams and Gregory, Thornton, Humphreys</i> and <i>Smith (Morgan James), Weller</i>.</p> <p>Define the defence of diminished responsibility by reference to S.2 Homicide Act 1957.</p> <p>Demonstrate knowledge of the elements of diminished responsibility and its interpretation – <i>Byrne, Ahluwalia</i>.</p> <p>Explain the offence of reckless manslaughter by reference to <i>Pike; Lidar and Cunningham</i>.</p> <p>Assessment Objective 2</p> <p>Discuss the potential murder charge against Carl by way of direct intent and causing death.</p> <p>Consider whether Carl may successfully plead provocation by applying the law to the facts:</p> <ul style="list-style-type: none"> • Was he provoked by Victoria's words? • Was there a sudden and temporary loss of control or a 'cooling off period'? – (3rd knife?) • Can his hot tempered personality or history of depression be brought into consideration under the objective 'reasonable man' (ordinary person) test as a 'characteristic'? <i>Smith (Morgan James), Weller</i>. <p>Argue to a conclusion.</p> <p>Discuss whether his history of depression may suffice for a defence of diminished responsibility – <i>Ahluwalia</i>.</p> <p>Discuss whether Carl's actions were not intentional but reckless – the evidence of years without mishap would tend to suggest the act was intentional but not necessarily so.</p>			Mark Levels	AO1	AO2	AO3	Level 5	21-25	17-20	-	Level 4	16-20	13-16	5	Level 3	11-15	9-12	4	Level 2	6-10	5-8	3	Level 1	1-5	1-4	1-2	[25]
Mark Levels	AO1	AO2	AO3																									
Level 5	21-25	17-20	-																									
Level 4	16-20	13-16	5																									
Level 3	11-15	9-12	4																									
Level 2	6-10	5-8	3																									
Level 1	1-5	1-4	1-2																									
				[20]																								

SECTION B [continued]																										
Question Number	Answer	Max Mark																								
4 cont'd	<p>Assessment Objective 3</p> <p><i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i></p> <p><i>Reward grammar, spelling and punctuation.</i></p> <p style="text-align: right;">Total marks</p>	<p>[5]</p> <p>[50]</p>																								
5	<p>Carol and Diana decide to go out 'clubbing' for the night. They meet at Carol's house and begin the evening by drinking half a bottle of vodka. They then go out and have some more drinks in a pub and they each take an ecstasy tablet which Diana has brought with her. As they are leaving the pub, Carol takes a leather jacket from the back of a chair, mistaking it for her own very similar jacket which she has, in fact, left at home. By the time that they arrive at the club, both girls are suffering from hallucinations. When the doorman, Barry, asks them for identity, Diana, who thinks Barry is an alien who wants to transport her to another planet, pokes him in the eye with her finger and then hits him over the head with her umbrella, knocking him unconscious.</p> <p>Consider the offences that Carol and Diana may have committed and whether they may have any defences available to them.</p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO1</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 5</td> <td>21-25</td> <td>17-20</td> <td>-</td> </tr> <tr> <td>Level 4</td> <td>16-20</td> <td>13-16</td> <td>5</td> </tr> <tr> <td>Level 3</td> <td>11-15</td> <td>9-12</td> <td>4</td> </tr> <tr> <td>Level 2</td> <td>6-10</td> <td>5-8</td> <td>3</td> </tr> <tr> <td>Level 1</td> <td>1-5</td> <td>1-4</td> <td>1-2</td> </tr> </tbody> </table> <p>Potential answers MAY:</p> <p>Assessment Objective 1</p> <p>Define theft S1 Theft Act 1968.</p> <p>Explain the 'partial dishonesty' defence in S2(1)(a) Theft Act.</p> <p>Explain the defence of voluntary intoxication by reference to the <i>Majewski Rules</i>; <i>Lipman</i> and the distinction between crimes of specific and basic intent.</p> <p>Define assault occasioning actual bodily harm by reference to S47 Offences against the person Act 1861 and <i>Miller</i>.</p> <p>Define 'grievous bodily harm' by reference to S18 and S20 <i>Smith</i>; <i>Saunders</i>.</p> <p>Assessment Objective 2</p> <p>Consider whether Carol has committed theft of the leather jacket by applying either S2(1)(a) Theft Act or the rules on self-induced intoxication.</p> <p>Consider Diana's assault on Barry and conclude that the application of the <i>Majewski Rules</i> will not provide a defence to the ABH charge for the poke in the eye since it is a crime of basic intent and even if she is charged with S18 for knocking Barry unconscious and if the prosecution cannot prove that she formed the <i>mens rea</i> she will still be convicted of an S20 offence by applying the 'fall back' formula.</p>	Mark Levels	AO1	AO2	AO3	Level 5	21-25	17-20	-	Level 4	16-20	13-16	5	Level 3	11-15	9-12	4	Level 2	6-10	5-8	3	Level 1	1-5	1-4	1-2	<p>[25]</p> <p>[20]</p>
Mark Levels	AO1	AO2	AO3																							
Level 5	21-25	17-20	-																							
Level 4	16-20	13-16	5																							
Level 3	11-15	9-12	4																							
Level 2	6-10	5-8	3																							
Level 1	1-5	1-4	1-2																							

SECTION B [continued]																										
Question Number	Answer	Max Mark																								
5 cont'd	<p>Assessment Objective 3</p> <p><i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i></p> <p><i>Reward grammar, spelling and punctuation.</i></p> <p style="text-align: right;">Total marks</p>	[5] [50]																								
6	<p>Emma hires Fred, a qualified electrician, to re-wire her house. She is unhappy when she notices sparks coming from the switches as she turns some lights on or off. Emma complains to Fred who returns to do some checks. He assures her that everything is in order and perfectly safe. The next morning, Emma goes to take a shower in the bathroom. When she turns on the shower control, she receives an electric shock that causes her to fall and bang her head, knocking her unconscious. Fortunately, her friend, Gita, arrives almost immediately and discovers Emma. Gita calls an ambulance and Emma is rushed to hospital. While Emma is still critically ill she develops an infection.</p> <p>Hugh, a junior doctor employed by the hospital, fails to read Emma's medical notes properly. The notes clearly show that Emma is allergic to penicillin. Hugh gives Emma penicillin to treat the infection. As a result of her allergy Emma dies.</p> <p>Discuss the liability of Fred and Hugh for Emma's death.</p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO1</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 5</td> <td>21-25</td> <td>17-20</td> <td>-</td> </tr> <tr> <td>Level 4</td> <td>16-20</td> <td>13-16</td> <td>5</td> </tr> <tr> <td>Level 3</td> <td>11-15</td> <td>9-12</td> <td>4</td> </tr> <tr> <td>Level 2</td> <td>6-10</td> <td>5-8</td> <td>3</td> </tr> <tr> <td>Level 1</td> <td>1-5</td> <td>1-4</td> <td>1-2</td> </tr> </tbody> </table> <p>Potential answers MAY:</p> <p>Assessment Objective 1</p> <p>Define gross negligence manslaughter by reference to <i>Adamako</i>:</p> <ul style="list-style-type: none"> • Duty of care. • Breach of duty. • Risk of death. • Conduct so far below that which is regarded as reasonable as to amount to a crime. <p>Refer to 'duty' situations:</p> <ul style="list-style-type: none"> • Contractual – <i>Pittwood; Holloway</i>. • Professional – <i>Adamako; Holloway</i>. <p>Outline the principles of causation – factual and legal <i>White; Pagett</i>.</p> <p>Describe the law relating to intervening acts by third parties and, in particular, medical negligence – <i>Smith; Jordan; Cheshire</i>.</p>	Mark Levels	AO1	AO2	AO3	Level 5	21-25	17-20	-	Level 4	16-20	13-16	5	Level 3	11-15	9-12	4	Level 2	6-10	5-8	3	Level 1	1-5	1-4	1-2	[25]
Mark Levels	AO1	AO2	AO3																							
Level 5	21-25	17-20	-																							
Level 4	16-20	13-16	5																							
Level 3	11-15	9-12	4																							
Level 2	6-10	5-8	3																							
Level 1	1-5	1-4	1-2																							

SECTION B [continued]		
Question Number	Answer	Max Mark
6 cont'd	<p>Assessment Objective 2</p> <p>Discuss the fact that Fred owes Emma a duty of care under both contract and his professional qualifications.</p> <p>Recognise that the duty owed is that of a qualified electrician rather than a handyman or 'neighbour'.</p> <p>Conclude that there was a breach of duty involving a risk of death and that a jury may well consider that Fred is potentially liable for Emma's manslaughter if they think his conduct has fallen so far below the standards of a qualified electrician to warrant such a finding <i>Holloway; Adamako</i>.</p> <p>Discuss whether Fred may be relieved of liability by the negligent actions of Hugh.</p> <p>Apply the relevant rules of causation in <i>Smith, Jordan, and Cheshire</i>.</p> <p>Identify a potential duty of care owed by Hugh to Emma and apply the principles laid down by <i>Adamako</i> as outlined above.</p> <p>Argue to a reasoned conclusion.</p> <p>Assessment Objective 3</p> <p><i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i></p> <p><i>Reward grammar, spelling and punctuation.</i></p> <p style="text-align: right;">Total marks</p>	<p>[20]</p> <p>[5]</p> <p>[50]</p>
SECTION C		
7	<p>John enters a supermarket intending to steal some food. He is in the shop when he notices that the door to the manager's office is open. He goes inside hoping to find something of value. There is no-one present but, as he is about to leave, he notices a wallet lying on the manager's desk. John picks the wallet up and takes a £20 note out of it. The manager, Sue, sees him leaving the office and shouts at him. John pushes Sue aside and runs out of the store.</p> <p>Evaluate the accuracy of <u>each</u> of the four statements A, B, C and D individually, as they apply to the facts in the above scenario.</p> <p>Mark Levels AO2</p> <p>Level 5 17-20</p> <p>Level 4 13-16</p> <p>Level 3 9-12</p> <p>Level 2 5-8</p> <p>Level 1 1-4</p> <p>Potential answers MAY:</p>	

SECTION C [continued]		
Question Number	Answer	Max Mark
7 cont'd	<p>Assessment Objective 2</p> <p>Statement A: John is guilty of burglary under S.9(1)(a) Theft Act 1968.</p> <ul style="list-style-type: none"> Identify that John enters the supermarket as a trespasser because he is exceeding the permission granted to shoppers to enter the supermarket <i>Jones and Smith</i>. John has the intention to steal when he enters the supermarket and is guilty at that point of entry of a S.9(1)(a) burglary even if he steals nothing. John is also potentially guilty of a S.9(1)(a) burglary when he enters the manager's office as a trespasser with a conditional intent to steal anything of value <i>A-G's Ref Nos. 1 and 2 of 1979</i>. Conclude that John is guilty of S.9(1)(a) burglary. <p>Statement B: John is guilty under S.1 Theft Act 1968.</p> <ul style="list-style-type: none"> Identify that John probably does not commit theft when he picks up the wallet as there is no apparent intention to permanently deprive the owner of it S.6 Theft Act 1968. Identify that in any event John is clearly guilty of the full offence of theft when he takes the £20 note; S.1 Theft Act 1968. He is clearly dishonest and cannot argue that it has been abandoned by the rightful owner and cannot claim to be an 'honest finder' in these circumstances. Conclude that John is guilty of the full offence of theft. <p>Statement C: John is guilty of robbery under S.8 Theft Act 1968.</p> <ul style="list-style-type: none"> Identify that robbery is defined in S.8 Theft Act 1968 as the use of force or the threat of force in order to steal. Identify that when he 'pushes Sue aside' John is clearly using force. Identify that the force must be 'immediately before or at the time of stealing'. Identify that theft may be viewed as a 'continuing offence' – <i>Hale, Lockley</i>. Conclude that John is almost certainly guilty of robbery. <p>Statement D: John is guilty of burglary under S.9(1)(b) Theft Act 1968.</p> <ul style="list-style-type: none"> Identify that a person commits a S.9(1)(b) burglary when 'having entered as a trespasser' he goes on to steal. Reason that although John may try to argue he is not yet a trespasser in the supermarket as his intention to steal is a secret one he certainly enters a 'part of a building' as trespasser when he enters the manager's office <i>Walkington</i>. Conclude that when he steals the £20 note he is guilty of a S.9(1)(b) burglary offence. 	[20]

SECTION C [continued]		
Question Number	Answer	Max Mark
8	<p>Wayne is the captain of the Northport United football team. During an important match against their local rivals, Wayne is involved in a clash of heads in an incident with an opposing player, Andrew. Wayne receives a nasty bruise above his left eye and is badly concussed. Wayne insists on continuing after treatment with a cold sponge but is obviously still in a very dazed condition. A few minutes later Wayne jumps wildly into a foul tackle on Andrew. Andrew is carried off in agony and x-rays later reveal that he has a broken ankle.</p> <p>Evaluate the accuracy of <u>each</u> of the four statements A, B, C and D individually, as they apply to the facts in the above scenario.</p> <p>Mark Levels AO2</p> <p>Level 5 17-20 Level 4 13-16 Level 3 9-12 Level 2 5-8 Level 1 1-4</p> <p>Potential answers MAY:</p> <p>Assessment Objective 2</p> <p>Statement A: Andrew is liable for ABH S.47 OAPA 1861 for the bruise suffered by Wayne.</p> <ul style="list-style-type: none"> Reason that a bruise may amount to an assault occasioning actual bodily harm contrary to S.47 Offences Against the Person Act 1861. Consider whether it satisfies the test of 'interfering with the health and comfort of the victim – <i>Miller</i>. Consider whether Andrew has caused the injury either recklessly or intentionally. Conclude that, in either case, Andrew may be liable as S.47 may be committed on proof of at least subjective recklessness in the <i>Cunningham</i> sense. 	

SECTION C [continued]		
Question Number	Answer	Max Mark
8 cont'd	<p>Statement B: Wayne is liable for GBH S.18 OAPA 1861 for the broken ankle sustained by Andrew.</p> <ul style="list-style-type: none"> Reason that a broken ankle may amount to 'serious harm' and could be charged under either S.18 or S.20 Offences Against the Person Act 1861. Consider the possibility that Wayne has caused the injury either recklessly or intentionally. Conclude that if it is 'reckless' it satisfies the definition in S.20 of 'maliciously' inflicting serious harm. If it is intentional then Wayne may be liable for a S.18 offence. <p>Statement C: Andrew has a defence of consent for any charge brought by Wayne.</p> <ul style="list-style-type: none"> Reason that consent may be available as a defence. Explain that physical contact sports are an exception to the rule that consent is not available to harm above the level of common assault – <i>A-G's Ref No.6 1980</i>. Consider that Andrew will only be liable if he caused Wayne's injuries 'outside the rules of the sport' either intentionally or recklessly. Conclude that Andrew has a potential defence of consent. <p>Statement D: Wayne has a defence of automatism for any charge brought by Andrew.</p> <ul style="list-style-type: none"> Reason that automatism may be available as a defence for Wayne. Explain that automatism is a defence for acts done by the muscles with no control by the mind. Identify that the blow to the head is an external factor. Conclude that Wayne has a potential defence of automatism if his acts were as a result of his concussion and not intentional or reckless – <i>Bratty</i>. 	[20]
Paper Total		[120]

Advanced GCE Law Levels of Assessment

There are **five** levels of assessment of AOs 1 and 2 in the A2 units. The first four levels are very similar to the four levels for AS units. The addition of a fifth level reflects the expectation of higher achievement by candidates at the end of a two-year course of study. There are **four** levels of assessment of AO3 in the A2 units. The requirements and number of levels differ between AS and A2 units to reflect the expectation of higher achievement by candidates at the end of a two-year course of study.

Level	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3 (includes QWC)
5	Wide ranging, accurate, detailed knowledge with a clear and confident understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate with wide citation of relevant statutes and case-law.	Ability to identify correctly the relevant and important points of criticism showing good understanding of current debate and proposals for reform or identify all of the relevant points of law in issue. A high level of ability to develop arguments or apply points of law accurately and pertinently to a given factual situation, and reach a cogent, logical and well-informed conclusion.	
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate by good citation to relevant statutes and case-law.	Ability to identify and analyse issues central to the question showing some understanding of current debate and proposals for reform or identify most of the relevant points of law in issue. Ability to develop clear arguments or apply points of law clearly to a given factual situation, and reach a sensible and informed conclusion.	An accomplished presentation of logical and coherent arguments and communicates relevant material in a very clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate with some citation of relevant statutes and case-law.	Ability to analyse most of the more obvious points central to the question or identify the main points of law in issue. Ability to develop arguments or apply points of law mechanically to a given factual situation, and reach a conclusion.	A good ability to present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles, and where appropriate with limited reference to relevant statutes and case-law.	Ability to explain some of the more obvious points central to the question or identify some of the points of law in issue. A limited ability to produce arguments based on their material or limited ability to apply points of law to a given factual situation but without a clear focus or conclusion.	An adequate ability to present logical and coherent arguments and communicates relevant material in a reasonably clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
1	Very limited knowledge of the basic concepts and principles. There will be limited points of detail, but accurate citation of relevant statutes and case-law will not be expected.	Ability to explain at least one of the simpler points central to the question or identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	A limited attempt to present logical and coherent arguments and communicates relevant material in a limited manner using some appropriate legal terminology. Reward grammar, spelling and punctuation.

BLANK PAGE

SPECIMEN