



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

LAW

9084/02

Paper 2 Data Response

May/June 2009

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.

You may use a soft pencil for any diagrams, graphs or rough working.

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 **3** printed pages and **1** blank page.



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

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

1 A and B plead guilty at Barchester Crown Court on 1st April 2009 to a charge of dwelling house burglary committed on 1st February 2009.

(i) A is 26 years old and has two previous convictions for burglary of dwelling houses committed in the past two years.

Consider, with reasons, whether A would qualify for the minimum 3 year sentence under section 111 of the Act. [10]

(ii) B is 17 years old and has one conviction for burglary at a petrol station and one for burglary of a dwelling house.

Consider, with reasons, whether B will qualify for the minimum 3 year sentence under s.111 of the Act. [10]

(iii) Discuss the approach of the courts to sentencing offenders with previous convictions and whether this differs from their approach to first time offenders. [30]

Source

Powers of the Criminal Courts (Sentencing) Act 2000

s.111 (1) applies where:

- (a) a person is convicted of domestic burglary committed after 30th November 1999;
- (b) at the time when the burglary was committed he was 18 or over and had been convicted in England and Wales of two other domestic burglaries; and
- (c) one of those other burglaries was committed after he had been convicted of the other and both of them were committed after 30th November 1999.

(2) The court shall impose an appropriate custodial sentence for a term of at least 3 years except where the court is of the opinion that there are particular circumstances which:

- (a) relate to any of the offences or the offender and
- (b) would make it unjust to do so in all the circumstances.

- 2 (i) Ahmed has a hunting knife for sale in his shop. Oliver, a customer, asks to look at it. Ahmed tells him it is a general purpose scouting knife. On the handle is the name 'Combat' and a picture of a soldier. Discuss whether Ahmed can be prosecuted under the Knives Act 1997. [10]
- (ii) Arthur goes into an antique shop. He sees on the wall a samurai sword. Yukio, the shopkeeper, tells him that it was used in Japan for ceremonial purposes. Discuss whether Yukio can be prosecuted under the Knives Act 1997. [10]
- (iii) Describe the circumstances when the courts can take Hansard into account as a source of law when applying a relevant section of a statute. [10]
- (iv) Describe the various extrinsic aids to interpretation of statutes and assess their value. [20]

Sources

Pepper v Hart [1992] 3 WLR 1032

Lord Browne-Wilkinson:

'Statute Law consists of the words that Parliament has enacted. It is for the courts to construe those words and it is the court's duty in so doing to give effect to the intention of Parliament in using those words. It is an inescapable fact that, despite all the care taken in passing legislation, some statutory provisions when applied to the circumstances under consideration in any specific case are found to be ambiguous. One of the reasons for such ambiguity is that the members of the legislature in enacting the statutory provision may have been told the result those words are intended to achieve...In a few cases it may emerge that the very question was considered by Parliament in passing the legislation. The court cannot attach a meaning to words which they cannot bear, but if the words are capable of bearing more than one meaning why should not Parliament's true intention be enforced rather than be thwarted?...

I therefore reach the conclusion...that the exclusionary rule should be relaxed so as to permit reference to Parliamentary materials where:

- (a) legislation is ambiguous or obscure, or leads to an absurdity;
- (b) the material relied on consists of one or more statements by a minister or other promoter of the Bill together with such other Parliamentary material as is necessary to understand such statements and their effect;
- (c) the statements relied upon are clear...'

Knives Act 1997

s.1(1) A person shall be guilty of an offence if he markets a knife in a way which:

- (a) indicates or suggests, that it is suitable for combat; or
- (b) is otherwise likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.

(4) A person markets a knife if

- (a) he sells or hires it
- (b) he offers, or exposes it for sale or hire; or
- (c) he has it in his possession for the purposes of sale or hire

s.10 knife means an instrument which has a blade or is sharply pointed. An indication that the knife is suitable for combat may be given by name or description which is applied to the knife or any packaging in which it is contained.

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