

Paper Reference(s)

YLA0/02

**Pearson Edexcel
International Advanced Level
Law**

Paper 2

Thursday 19 June 2014 – Afternoon

Time: 3 hours

Materials required for examination

Answer book (AB16)

Items included with question papers

Nil

Instructions to Candidates

In the boxes on the answer book, write your centre number, candidate number, your surname and initials, the paper reference (YLA0/02) and your signature.

This paper is divided into FIVE sections (A–E). Choose TWO of these sections and answer any TWO questions from each – FOUR questions in total.

Your answers must be fully supported with appropriate legal authority and examples.

Answer your questions in the answer book.

Indicate which questions you are answering, in the boxes on the front page of the answer book AND in the left-hand margin of the answer space.

Do not use pencil. Use blue or black ink.

Information for Candidates

All questions carry equal marks.

The total mark for this paper is 100.

This paper has 20 questions. Any blank pages are indicated.

Advice to Candidates

Write your answers neatly and in good English.

Printer's Log. No.

P43274A



Turn over

**Answer any FOUR questions chosen from TWO sections.
Candidates must answer TWO, and only TWO, questions from each section.**

SECTION A: The Market

1. On January 1st, *A*'s eighteen-year-old daughter, *B*, left home after a family row and went missing. On February 1st, *A* put an advertisement, containing a photograph and description of *B*, in a national newspaper stating:

“£5,000 reward to the person who finds B, my missing daughter.”

C, who was a neighbour of *A*, had always wanted a career as a private investigator, and as he was then unemployed, he decided to look for *B* himself, hoping to claim the reward. However, *D*, one of *B*'s close friends, discovered where *B* was staying, and telephoned *A* to tell him her whereabouts. *A* did not answer the call, so *D* thought she had left a message on *A*'s answering machine, but the machine had a fault, and did not record her message.

On February 14th, *C* found out where *B* was staying, and sent a text message to *A* to inform him, but *A* had mislaid his mobile phone and did not read the text message. The next day *E*, who had also read the advertisement, and knew *B* well, sent an email message to *A* to tell him where *B* was staying. The same day *A* discovered that *B* had stolen his credit card and had been using it, wanting no more to do with *B*, *A* placed a notice in the same newspaper, stating that the reward notice was being withdrawn. The notice was published in the newspaper at 9.00 am the next day. At 2.00 pm that day *A* read *E*'s email.

Consider who, if anyone, might be entitled to claim the reward.

(Total 25 marks)

2. *F* bought a restaurant in a busy town centre. Five years later, trade had moved away from the town centre, and *F*'s business was no longer profitable, so she decided to sell the restaurant. *G* was interested in buying the restaurant, and *F* told her that it had been thriving, even though more people were shopping out of town, as the restaurant had a reputation for high quality food. It was true that the quality of the food served by *F* was very high. She told *G* that the profits had been between £12,000 and £18,000 a year for the past three years. When *G* asked about the staff, *F* told her that she employed three reliable people to serve customers, but did not mention that two of them were students about to go to university, and that staff were difficult to find. *F* did also not tell *G* that a fast food outlet was opening in the same street very soon, although *F* had known this for some time. *F* told *G* that an exclusive wine retailer would soon be opening next door, which would bring more customers to the restaurant. *F* honestly believed this, but in fact it never happened.

G purchased the restaurant as a going concern for £150,000, but the formal contract did not mention any of the matters that *F* and *G* had discussed, and it contained no profit statement. *G* turned down an offer from *H* to purchase the restaurant for £180,000 soon after she had paid for it. She then discovered that many of the statements made by *F* in the pre-contract negotiations were false.

Consider whether *G* has a remedy against *F*, and if so, what court would hear the case.

(Total 25 marks)

3. *J* bought an electric hairdryer, manufactured by the *K* Electrical Corporation of China, from *L*, a large supermarket in London. The hairdryers were imported and distributed in the UK by *M*. After a couple of months use, *J* had a nasty electric shock from the hairdryer when he picked it up one evening, and burned his hand badly. This meant he could not continue his work as a pianist in a hotel for several weeks, and he lost £5,000 in wages. He took the hairdryer back to *L*, who exchanged it for another hairdryer. However, *L* made no other offer of compensation. A couple of days later *J* was talking to his neighbour, *N*, who told him she had a shock from her hairdryer the night before and it turned out to be the same model, also bought from *L*.

J and *N* decided to report the matter to the *P* Town Trading Standards Department, which had received several other complaints about this model. *P* contacted the importers and the manufacturers, who said that these hairdryers must have come from a faulty batch and that they had advised *L* to remove any of that batch from the shelves and to warn any purchasers they could trace to return the hairdryers, but that no further action was required.

P thought this response was not strong enough, and they wanted to prohibit any further sales or distribution of those hairdryers until further tests were carried out. They were also concerned that *L* did not appear to have done anything other than replace the hairdryers. To protect consumers, *P* is considering issuing a warning advising consumers to take the faulty hairdryers back to their retailers to be checked, and requiring retailers to recall all hairdryers in that batch.

To what extent can the law assist *P* to adopt these measures to protect consumers? Advise *J* as to whether he would be entitled to compensation for his injuries.

(Total 25 marks)

4. The *R Hotel* advertised a romantic weekend break for £350 which included a special five-course evening banquet, a flight in a hot air balloon and a luxury hotel suite with a four-poster bed. On January 2nd 2013 *Q* booked one of the weekend breaks at the *R Hotel* for himself and his girlfriend, *S*, through *T Travel*. However, while walking past the window of *T Travel* on January 29th of the same year, he saw the same package being advertised at only £250. When he complained to *T Travel*, he was told that the price had been reduced because too few people had taken up the original offer, but that no reduction could be made to *Q*'s booking price.

Although angry, *Q* and *S* went on the weekend trip but were further irritated to find that the special banquet evening did not take place because the chef had stormed out three days previously in a dispute with the management. The balloon flight had to be cancelled because of exceptionally stormy weather, which was very unusual in the area. *Q* was particularly upset because he had planned to propose marriage to *S* that weekend, but the circumstances were not right for romance, and he did not do so. He was very distressed when *S* got engaged to someone else when they returned home.

In the brochure produced by the *R Hotel* and given to *Q* and *S* by *T Travel* there was a clause, which read:

“While every effort will be made to provide the weekend events described in the brochure, these are not guaranteed. R Hotel reserves the right to change the structure of the weekend. Any statements made in the brochure should not be treated as trade descriptions and R Hotel and any participating travel agent disclaim any liability under the Trade Descriptions Act 1968 and the Consumer Protection Act 1987.”

Consider whether *Q* and *S* have any remedies against *R Hotel* and *T Travel*, and if so, whether they could lawfully resolve their grievances without using the courts.

(Total 25 marks)

TOTAL FOR SECTION A: 50 MARKS

SECTION B: The Workplace

5. *A* was a highly qualified and very experienced researcher employed by *B*, an English pharmaceutical company, at a salary of £80,000 a year. He had worked for *B* for 10 years, when he was approached by *C*, an American company, which offered him the equivalent of £120,000 a year, as long as he started work within two weeks. However, the period of notice that *A* was required to give was three months, and when he had first been employed by *B*, *A* had signed a contract that contained a clause stating as follows:

“The employee covenants that he will not work for another pharmaceutical company anywhere in the world for three years after leaving the employment of B.”

A wanted to work for *C* in America, so he falsely told *B* that he was ill, and obtained a medical certificate which stated that he had “severe back pain”. He left England and began to work for *C* within two weeks.

Advise *A* as to whether he was entitled to leave his employment with *B* when he did, and comment on the status of the restrictive clause in the employment contract. Consider whether *B* can prevent *A* from working for *C* for the next three years.

(Total 25 marks)

6. Since January 1999, *D* had worked full time for *E*, a retailer. In January 2004 *E* contracted out various services, including the catering services department in which *D* had worked as a manager. The contract for the catering services was awarded to the *F* catering company, and *D* was then employed by *F*.

G was employed by *E* in the Human Resources Department, and *D* discovered that *G*, who had been at university with her, had been paid £5,000 more than *D* every year since he had been appointed in December 2001. Meanwhile *H*, who was 61 years old and worked in *E*'s stores department, wanted to benefit from a scheme operated for employees over the age of 60. The scheme enabled employees to work part time during the five years up to the normal retirement age of 65, and at the same time to receive a pay supplement. However, *H* already worked part time, and had done so for the previous 15 years, but she had never received a pay supplement.

Advise *E* as to its potential liabilities in respect of these employees and possible remedies available to current and former employees.

(Total 25 marks)

7. *K* had worked full time as a machine operator for *L*, a manufacturing company, for 10 years. *M* had worked for *L* as a forklift truck driver for three years. *N* and *O* had worked in the sales department of *L* for five years.

L was one of a group of companies, and in January last year, the following notice appeared on the company noticeboard:

“The Group Board regrets to announce that the economic situation means we have no alternative but to close the business of L with effect from 31 March. However, P, a large public company, has agreed to buy the equipment previously used by L on April 1st. Any orders outstanding on that date will be taken over by P. The warehouse will be sold, but continued employment will be offered by P to many members of sales and administrative personnel. We think that 20 people will be made redundant.”

The following week, *K* and *M* received notice that they would be made redundant, with no further explanation. *N* and *O* received letters informing them that their jobs would be safe, and new contracts were being drafted, but they would be expected to be paid £2,000 less per annum in wages.

Consider whether the correct procedures had been followed by *L* and *P*.

(Total 25 marks)

8. *Q* was a large NHS Hospital employing a range of professional staff including doctors, nurses, agency staff, and a number of contractors including cleaners and caterers.

As there was a staff shortage, the *R* nursing agency supplied nurse *S* to work for *Q* on the children’s ward. *S* was not very confident about dealing with children, as she had been trained to work on wards with geriatric patients. She did not make sure that toys were tidied away from the play area, and *T*, one of the other staff members, tripped over a large teddy bear and injured her ankle. As a result, *S* was very unpopular, and the permanent staff decided to play a practical joke on her. One of them, *U*, dressed up as a cartoon character and jumped out from behind a curtain, giving *S* a fright, as a result she dropped a jug of boiling water and scalded her hand. *V*, a window cleaner employed by a contractor, observed what had happened through a window and because he was laughing so much, he fell from the ladder on to *W*, injuring them both.

X, an electrician, who did regular work for *Q*, and was paid a monthly salary, but using his own equipment, made a serious error when carrying out a dangerous repair on an X-ray machine, and later, *Y*, a patient, had an electric shock as a result, and suffered serious burns.

Consider whether *Q* would be liable for the injuries suffered by *S*, *T*, *V*, *W* and *Y*, and if *Q* would not be liable, consider who would be named as a defendant.

(Total 25 marks)

TOTAL FOR SECTION B: 50 MARKS

SECTION C: The Family

9. *A*, aged 13, was living with her parents *B* and *C*, and her two younger sisters, all of whom belonged to a strict religious sect. The family had no radio or television, the children's reading material was monitored by the parents, and the children were not allowed to go out without their parents in the evenings or during school holidays, though *A* was occasionally allowed to have her friend *D* to her home for tea after school.

A began to stay at school for after-school activities and started refusing to attend religious services with her family. She began to ask for more freedom, so *B* and *C* stopped her small allowance of pocket money and forbade her from seeing *D* after school. One day after school, *A* went home with *D*, whose mother *E* was a teacher at her school, and *E* agreed that if *A*'s home life did not improve, she could live with them. A few weeks later, following a big row with her parents, during which *A*'s father, *B*, hit *A* hard across the face, *A* went to stay at *D*'s house.

B and *C* want *A* to return home. They intend to keep her under strict control, by withdrawing her from school and educating her at home. Consider whether *A* will be able to live permanently with *D*'s family, as she wants, and also whether she can maintain contact with her sisters.

(Total 25 marks)

10. *F* was aged 18 when she was forced by her parents, *G* and *H*, to marry *J*, aged 40. *F* was initially very unhappy, but she began to feel better when her child, *K*, was born a year later. However, *J* was very jealous when she gave all her attention to *K*, and he began hitting *F* hard if she did not have his food ready when he returned home from work. He also refused to allow *F* to take *K* to have her childhood immunisations. After several months *F* left home in the middle of the night, taking *K* with her, and returned to the home of her parents who were very unsympathetic, saying that *F* had brought dishonour to their family. Her father, *G*, tortured *F* until she agreed to return to live with *J*. *F* finally went to stay in a women's refuge, but she was suffering from depression and felt unable to care for *K* properly. She was also very frightened that *J* and *G* would find her.

Explain the legal steps that *F* should take to protect herself and *K* in the present situation and for the future.

(Total 25 marks)

11. *L* and *M* had been married for five years when *L* left home, leaving *M* to live in the family house, which was not subject to a mortgage. *M* was working as a school teacher, so *L* did not send her any money, and as the couple had no children, they did not bother to get a divorce. After another five years, *M* inherited £200,000 on the death of her mother, but as she had not seen *L* since he left home, she told him nothing about this. Another 10 years passed, and *L*'s business failed, leaving him penniless. *L* decided to ask *M* to agree to the sale of the house, and asked her to help him financially. *M* refused to help at all at first, and *L* decided to divorce her in order to claim some financial support.

M argued that as *L* had left her, he was not entitled to any share in the family home, nor to any financial help from her. However, she suggested that if he were to have a payment from her to represent his share in the house, he should only be allowed to take half the value of the house as it was on the day he left her. *L* wanted half the market value as it stood on the day of the divorce. *L* found out about *M*'s inheritance and demanded a share of that, as well as a monthly sum from *M*'s salary and a share in any future pension payable to *M*.

Advise *M* on the law as to how she can protect her financial interests, and consider whether *L* might obtain financial support from *M* without involving the expense of consulting a solicitor and using the courts.

(Total 25 marks)

12. *P*, living in a lesbian relationship with *Q*, wanted a child. She had a short sexual relationship with a man, *R*, which finished just after she and *Q* went through a ceremony to become civil partners. *P* then discovered she was pregnant by *R* so she contacted *R* without telling *Q*, and she and *R* made a parental responsibility agreement immediately after the birth. *P* told *Q* that she had become pregnant using sperm from a donor who had advertised on the internet. *Q* was worried that this might be illegal. *R* wanted to be named on the child's birth certificate, and asked for the child to have his surname, but *P* then denied that he was the father and refused, saying she wanted the child never to have any contact with *R*, as she feared that *Q* would discover that she had had a sexual relationship with *R*.

Advise *R* as to whether he can be acknowledged in law as the child's father, and whether he can insist on the child having his surname. Consider the law on whether he can have contact with the child and whether he can influence the child's upbringing. Advise *Q* whether the sperm donation would have been legal if it had in fact happened as she believed.

(Total 25 marks)

TOTAL FOR SECTION C: 50 MARKS

SECTION D: The Criminal Offender

13. *A* considered herself to be a good citizen. *A* was shopping one day when she saw *B*, aged 9, take a purse from a handbag on a chair outside a changing room in a clothes shop and remove 50p from it, before returning the purse to the handbag. *A* grabbed the 50p from *B*, slapped her hard on the leg, and told her she was “a very naughty little girl”. She reported the incident to the manager, telling her she thought *B* should be arrested and she would have carried out a citizen’s arrest herself if only she had had the time. *A* was not aware that the handbag belonged to *B*’s mother who had told *B* she could have 50p if she looked after the handbag while she tried on a dress. When she returned home, *A* found the 50p she had taken from *B*, in her coat pocket.

Later that day *A* witnessed a fight in which a frail old man was being beaten up by *C*, a much younger, well built, man. *A* again intervened, kicking the younger man in the genitals, causing him a serious injury. *A* had not noticed that this incident was being filmed for a fictional television series.

Consider whether *A* has committed any criminal offences and whether she can rely on any defences.

(Total 25 marks)

14. *D*, a student with no criminal record, wanted to go on a surfing holiday but could not afford the cost of £800. He decided to pay for the holiday by borrowing £400 from his friend *E*, and carrying out house decorating for *F*, a neighbour.

Lying to her, *D* told *E* that he needed £400 to help pay his university fees. *E* gave *D* £400 when he promised to repay her within a year. *D* thought he might pay it back if he was lucky with the lottery, for which he bought tickets every week.

F asked *D* to paint the windows of his house. *D* told *F* he was an experienced painter and decorator, which was a lie. *F* gave *D* what he thought was £100 in bank notes to buy paint; but by mistake, *F* gave him £140, and although *D* noticed this he decided to say nothing, and kept the extra £40. *D* used the remaining £100, spending £80 on paint and £20 on a new shirt. He decided to put on just one coat of paint, instead of the agreed two. *D* completed the work and *F* paid the balance of the agreed price.

Rather than catching a bus, *D* decided to take a taxi to his university hall of residence, but before completing the journey, he decided not to pay, leaping out of the taxi when it stopped at traffic lights, and running off.

Consider whether *D* has committed any criminal offences, and if so, what sentences he might expect.

(Total 25 marks)

15. *G*, aged 16, and *H*, aged 22, returned home one evening to discover that the door of their flat had been forced open, and on entering they saw that three armed men, *J*, *K* and *L* were still there. *J* and *K* pointed guns at *G* and *H* and tied them up while *L* continued to fill a bag with valuable silver that *H* had recently inherited. *G* managed to pick up a knife from the kitchen shelf, close to where he was tied up, and to cut his bonds. He flew at *J*, attacking him from behind and throwing him to the floor, causing bruising to his shoulder and chin. *K* and *L* ran off, and *G* released *H*, who grabbed the knife from *G* and stabbed *J* in the leg, causing a deep wound, which bled profusely.

G went into the bathroom and discovered that the intruders had strangled his pet cat to death. He was so upset and angry that he ran back to *J* and screamed, "I'm going to kill you for this". The police, who had been called by a neighbour, heard this and immediately arrested *G*.

Consider the criminal liability, if any, of *G*, *H*, *J*, *K* and *L*, and discuss what sentences *G* and *H* might expect if convicted of any offences.

(Total 25 marks)

16. *M* and *N* decided to commit suicide together after *M* was diagnosed with terminal cancer. They both jumped off a cliff, and although *M* died, *N* landed on a ledge and suffered an injury which was not life-threatening at that stage. *P* had observed what was happening, and he called the emergency services.

However, the ambulance was late arriving because *R* had thrown a brick at it from a bridge as a practical joke. When the ambulance crew eventually got *N* to hospital his condition had deteriorated, and he was admitted to the Intensive Care Unit. *N* realised what had happened, and in a state of despair, begged Dr *Q* to give him some way of ending his life. Without saying anything, Dr *Q* left a large number of strong painkilling drugs within *N*'s reach, hoping he would take the hint and administer them to himself once he was alone.

N's daughter arrived at the hospital, and knowing what her father wanted, she helped him to take the medication, handing him the tablets one at a time and watching him swallow them. *N* died within a few minutes.

Consider whether any criminal offences have been committed and if so by whom. Explain how the decision whether or not to prosecute would be made.

(Total 25 marks)

TOTAL FOR SECTION D: 50 MARKS

SECTION E: The Citizen and the Law

17. *A*, *B* and *C* wanted to protest against increasing poverty in Europe. *A* telephoned all his friends and arranged to meet them with tents and camping equipment in a large public square outside a church in the centre of their town. In all, about 200 people arrived, including families with young children, bringing about 20 cars, which *B* told them to park in a private office car park near the square. The protestors set up camp in the square, and stayed for two months. Local residents were very upset at the state of the town centre, which began to fill with rubbish from the campsite. The campers used the town's public toilets and the drains were regularly blocked, causing smells and swarms of flies in the town centre.

Police and town officials politely asked the protestors to move, but they refused, and one Saturday, they held a rally and march through the town without first informing the police. In order to draw public attention to the protest, *C* set fire to a car that the protestors had parked on the route of the march.

Consider whether any public order offences have been committed, and the extent to which the police have powers to move the protestors out of the town peacefully.

(Total 25 marks)

18. One fine summer evening, *D* and *E* contacted a number of their friends using social network sites, urging them to plunder shops in towns in England for a "bit of fun". By 10.00 pm, huge crowds of people had gathered in five city centres. *D* asked *E* to film events as he crashed his car into a shop window and smashed the glass, while *F* and *G* ran into the shop and grabbed electrical goods. They put the film on the internet, as a result of which around 100 more people poured into the five city centres, carrying baseball bats, iron bars and other objects that could be used to smash glass.

H, a student with no criminal record, on the spur of the moment, and carried away by the atmosphere, drove her car into a shop window. *J* and *K*, two children who were watching from a nearby house, unnoticed by the looters, were terrified.

Consider what public order offences have been committed by *D*, *E*, *F* and *H*, if any, and explain what sentences might be imposed on any offenders.

(Total 25 marks)

19. *L*, a girl aged 8, disappeared from her home, and some weeks later she was found to have been murdered. The police asked the media to help with the investigation by publicising the progress of the search for *L*. The media did as requested, but also gave a large amount of background information about *L*'s family, including information they had gathered by intercepting mobile phone conversations between *L*'s parents *M* and *N*.

One newspaper described *M*, *L*'s mother, as living on state benefits, and having six children by five different partners. This was untrue, as *M* had only had four children by three different partners. The same report stated that *M*'s present partner, *N*, had been given a conditional discharge five years ago for downloading child pornography, which was true.

N was arrested and charged with the murder of *L*. The trial was to take place six months later. *N*'s legal team feared that he would not have a fair trial because of the publicity in the media about his past life. *M* was considering a claim for libel against the newspaper.

Explain the legal considerations that need to be taken into account in deciding whether *N* can have a fair trial. To what extent could he bring a claim for libel against the newspaper? Consider whether *M* is likely to succeed in a claim for libel.

(Total 25 marks)

20. *P* and *Q* were students who had recently come to study in an English university. They found it quite difficult to understand the local accent, but their written English was good. *P* found a purse which had been dropped in the street, and picking it up, she showed it to *Q*, who put it in her handbag, intending to hand it in at the nearest police station. *P* and *Q* then went to a bar and had a few alcoholic drinks before walking back to their hall of residence.

On their way back, *P* and *Q* were giggling and pretending to argue. *R*, a police officer in uniform, stopped *P* and *Q* in the street and asked them to take off their coats and hats for him to conduct a search. He found the purse in *Q*'s handbag, and realised that it matched the description of a purse that had been stolen that same day. Although *Q* told him how she had found the purse, he did not believe her explanation. He arrested *P* and *Q* and after cautioning them, he took them to the police station in a police car. During the journey their conversations were recorded. In the police station they were asked to empty their pockets and hand in their possessions. They were held in police cells overnight before being questioned 10 hours later, by which time they were terrified. *Q* asked for an interpreter, but was told that no-one was available, and the custody officer on duty told *P* that as it was a Bank Holiday, no legal advisers were available.

Q was eventually charged with an offence relating to the purse, and *P* was allowed to go home without charge.

Advise *P* and *Q* as to whether the police followed the correct procedures, and if not, whether they might have any remedies against the police.

(Total 25 marks)

**TOTAL FOR SECTION E: 50 MARKS
TOTAL FOR PAPER: 100 MARKS**

END