Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/23**

Paper 2 Criminal Law **May/June 2023**

1 hour 30 minutes

5840676410

You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **two** questions in total:
  - Section A: answer Question 1.
  - Section B: answer **one** question.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 60.
- The number of marks for each question or part question is shown in brackets [ ].

This document has **4** pages. Any blank pages are indicated.

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Section A

Answer Question **1(a)**, **(b)** and **(c)** using **only** the source material provided.

1 **(a)** Jonathan advertises a horse for sale for £10 000. The advertisement says that Bob, a horse specialist, has certified the horse to be in excellent health. In fact, Bob has told Jonathan that the horse has a serious heart problem. Liz visits Jonathan and she buys the horse for £10 000. He gives her a certificate, which he says is from Bob, stating that the horse is in excellent health. Liz later discovers that the horse has a serious heart problem along with other major health issues.

Explain how the source material will apply to Jonathan. [10]

(b) Teresa sees an online advertisement for a science teacher job. She meets all the job requirements but she has been banned by law from working in a school due to a conviction for theft. Teresa submits her online application form and is given an interview. Teresa knows she should disclose her ban. When she is asked at the interview if she is allowed to work in a school she talks about her excellent teaching style instead. Teresa is given the job with a large salary. Two months later she is dismissed when the school discovers her theft conviction.

Explain how the source material will apply to Teresa. [10]

(c) Wilhelm works for a charity. As part of his role, he often stands outside a shop with a collecting box for the charity. He sees how much money people donate, so he makes his own collecting box, which looks almost identical to the one the charity uses. Wilhelm stands by a shop with his collecting box in silence to see what will happen. In one hour people donate £100. Wilhelm spends the money on clothes. The next day Wilhelm's boss gives him the charity's credit card to go out and buy some office equipment. On his way back to the office with the equipment, Wilhelm spends £30 on flowers for his girlfriend using the charity's credit card.

Explain how the source material will apply to Wilhelm. [10]

Section B

Answer **one** question from this section **not** using the source material.

EITHER

2 **(a)** Describe omissions in *actus reus*. [5]

(b) Evaluate the law on appropriation in theft. [25]

OR

3 **(a)** Describe the mitigating and aggravating factors to be considered when sentencing an adult offender. [5]

(b) Evaluate to what extent preventing re-offending is the **most** effective aim when sentencing young offenders. [25]

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Source material for Section A Question 1

Fraud Act 2006

Section 2 Fraud by false representation

(1) A person is in breach of this section if he—
  (a) dishonestly makes a false representation, and
  (b) intends, by making the representation—
    (i) to make a gain for himself or another, or
    (ii) to cause loss to another or to expose another to a risk of loss.

(2) A representation is false if—
  (a) it is untrue or misleading, and
  (b) the person making it knows that it is, or might be, untrue or misleading.

(3) "Representation" means any representation as to fact or law, including a representation as to the state of mind of—
  (a) the person making the representation, or
  (b) any other person.

(4) A representation may be express or implied.

(5) For the purposes of this section a representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).

Section 3 Fraud by failing to disclose information

A person is in breach of this section if he—

(a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and

(b) intends, by failing to disclose the information—
  (i) to make a gain for himself or another, or
  (ii) to cause loss to another or to expose another to a risk of loss.

Theft Act 1968

Section 34 Interpretation

(1) …

(2) For purposes of this Act—
  (a) "gain" and "loss" are to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; and—
    (i) "gain" includes a gain by keeping what one has, as well as a gain by getting what one has not; and
    (ii) "loss" includes a loss by not getting what one might get, as well as a loss by parting with what one has;

***R v Blight and Ingham* (2019)**

Two wreck divers were convicted of fraud through a dishonest failure to disclose the information that they had taken possession of a wreck, as required by the Merchant Shipping Act 1995. The items taken by the defendants came from shipwrecks of commercial vessels which had been lost at sea or from naval warships lost during the First World War. They sold items taken from the wrecks and kept the proceeds.

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