



CRIMINAL LAW

THE FUNDAMENTALS

Self-test Questions

CRIMINAL LAW

THE FUNDAMENTALS

Self-test Questions

CHAPTER 2 ACTUS REUS

- What is actus reus?
- When can not doing something (i.e. failing to act) give rise to criminal liability?
- In what circumstances is a person under a duty where he has created a dangerous situation?
- What is factual causation?
- What is legal causation?
- When does a naturally occurring event break the chain of causation?
- When does the act of a third party break the chain of causation? Does the law treat all third party interventions the same? (Hint, consider negligent medical treatment.) Can you cite authority in support?
- When does the act of the victim break the chain of causation?
- What problem arises in law if the actus reus precedes the mens rea in time, and how has the law addressed the problem?

CHAPTER 3 MENS REA

- What is mens rea?
- How does motive differ from mens rea?
- What is direct intent?
- What is oblique intent and what is the current test to determine whether a defendant acted with such intent?
- When is a person criminally negligent?
- How is recklessness currently defined under the criminal law?
- Explain the principle of transferred malice.
- Define strict liability.
- Explain what the presumption of mens rea means in your own words.
- Explain what factors contribute to a judge's decision to displace the presumption.

CHAPTER 4 HOMICIDE

- What is the actus reus of unlawful homicide?
- What is the mens rea of murder?
- What does the word 'voluntary' mean in respect of voluntary manslaughter?
- What does the word 'involuntary' mean in respect of involuntary manslaughter?
- What are the differences between the partial defence of diminished responsibility as originally enacted under the Homicide Act 1957 and that as amended by the Coroners and Justice Act 2009?
- Why was the partial defence of provocation abolished (note that s. 56 of the Coroners and Justice Act 2009 which abolishes provocation came into effect on 4th October 2010)?
- Where does the burden of proof in relation to diminished responsibility lie?
- Where does the burden of proof in relation to loss of self-control lie?
- What are the differences between the partial defence of provocation at common law and under the Homicide Act 1957, and that as amended by the Coroners and Justice Act 2009?
- There are three types of involuntary manslaughter. What are they?
- What are the elements of the offence of unlawful act manslaughter?
- What are the elements of the offence of gross negligence manslaughter?
- Consider the objectivity involved in the offences of both unlawful act manslaughter and gross negligence manslaughter (i.e. which elements are assessed objectively? Are there any assessed subjectively?)

CHAPTER 5 NON-FATAL OFFENCES

- Define the offences of assault and battery.
- Can a battery be inflicted indirectly?
- Define actual bodily harm.
- What, and according to which authority, is the mens rea of s.47 OAPA 1861?
- What constitutes a wound for the purposes of ss.18 and 20 OAPA 1861?
- How has the word "maliciously" as used in ss.18 and 20 been interpreted by the courts?
- What is the difference between "cause" in s.18 and "inflict" in s.20 OAPA 1861?
- Will either foresight of GBH or intention to wound suffice as mens rea for s.18?
- Can consent be a defence to an act of aggression or violence which causes harm? If so, when?
- Explain the nature of informed consent in the criminal law.
- Explain what may amount to a course of conduct for the harassment offences.

CHAPTER 6 SEXUAL OFFENCES

- Define the offence of rape.
- What is the difference in the actus reus between the offences of rape and assault by penetration?
- What are the specified circumstances in s.75(2) of the 2003 Act which may give rise to an evidential presumption of consent?
- What is the effect if the prosecution can rely on a presumption under s.76 of the 2003 Act?
- How is "consent" defined in the 2003 Act?
- How is "sexual" defined in the 2003 Act?
- Can an intoxicated complainant consent to sexual activity?
- What is the mens rea of sexual assault?
- Which offence under the 2003 Act might be committed by a defendant if he breaks into the girls' dormitory at a boarding school intending to rape one of the girls sleeping there?
- Describe the main differences between the 'main' sexual offences and those involving children under ss. 5-8 of the Sexual Offences Act 2003.

CHAPTER 7 THEFT

- Define theft.
- What is the actus reus of theft?
- Define appropriation.
- Can D appropriate property if the owner has consented to him taking it?
- Can a person steal the following: land; a trade secret; a credit balance in a bank account; a patent; electricity; an animal kept in a zoo; a wild flower; a taxi ride; their own property?
- What is the effect of s.5(3) of the Theft Act 1968?
- What are the circumstances set out in s.2 of the Theft Act 1968 under which a person would not be considered dishonest?
- What is the common law test for dishonesty?
- What is the "Robin Hood defence"?
- Can a borrowing ever amount to an intention permanently to deprive?



CRIMINAL LAW

THE FUNDAMENTALS

Self-test Questions

CHAPTER 8 PROPERTY OFFENCES II

- Define robbery
- Can a defendant be liable for robbery if he merely uses force to take hold of property or must he actually take the property? Why?
- If a defendant threatens V with force unless V hands over her property but V is not frightened by the threat might D be liable for robbery?
- What are the various ways in which burglary may be committed?
- If a defendant enters a building as a trespasser with intent to steal but does not steal; he only damages some property, is this burglary?
- Would the following constitute a building for the purposes of burglary: a garage which is adjacent to, but detached, from a dwelling house; a greenhouse; a factory; a caravan; a portable cabin?
- What is the mens rea of blackmail?
- What are the different ways in which a defendant may commit handling?
- Can a defendant be liable for handling if he undertakes the disposal of stolen goods for his own benefit?
- There is one offence of fraud but it can be committed in one (or more) of three ways. Describe the three ways.

CHAPTER 9 CRIMINAL DAMAGE

- Define the criminal damage offence contrary to s.1(1) of the Criminal Damage Act 1971.
- What are relevant considerations in determining whether property has been damaged?
- How should a judge direct the jury on recklessness for the purposes of the s.1(1) offence?
- Can a person be liable under the 1971 Act for damaging their own property?
- How does the simple offence under s.1(1) differ from the aggravated offence under s.1(2)?
- Does the actus reus of the offence under s.1(2) of the 1971 Act require that life is endangered?
- Why was the defendant in *Steer* not liable for aggravated criminal damage?
- How should a charge of aggravated arson be phrased?
- What are the two lawful excuses provided in s.5 of the 1971 Act?
- Do the s.5 lawful excuses require a sober belief? On what authority?

CHAPTER 11 PARTICIPATION

- What are the various modes of secondary liability?
- What is the difference between an accessory and a principal?
- Who/what is an innocent agent?
- What is the mens rea required of an accessory?
- What is joint enterprise liability and what was the effect of the decision in *Powell and English* on this form of liability?
- Explain the “fundamentally different rule”.
- If the principal can rely upon a defence which is not available to the accessory, does this affect the liability of the accessory?
- Can an accessory be liable for a more serious offence than his principal?
- Can a participant in a joint criminal venture withdraw from that venture so that they are no longer liable in relation to that venture?
- Vicarious liability is very rare in the criminal law. Can you explain why, and also when, vicarious liability may arise?
- For any crime other than manslaughter (excluding of course any offences a corporation cannot commit anyway), liability is based on the identification doctrine. What is this?
- For crimes of manslaughter, how is corporate liability assessed (see Chapter 4)?

CHAPTER 12 NEGATING OFFENCE/ CAPACITY

- Must a sober mistake as to the need to act in self-defence be based on reasonable grounds?
- Why have the courts limited the availability of the defence of voluntary intoxication?
- Explain the rule in *Majewski*.
- What are the various tests which have been used to determine whether a crime is one of specific intent?
- If a defendant successfully pleads voluntary intoxication on a charge of murder, will this result in a complete acquittal?
- What is the effect of the decision in *Hardie*?
- When can a defendant rely on the defence of involuntary intoxication?
- Can a defendant rely on an intoxicated mistaken belief as to consent on a charge of GBH contrary to s.20 of the Offences Against the Person Act 1861?
- What is the test for legal insanity?
- Which test do the courts use to distinguish between a case of sane automatism and one of insane automatism and, applying this test, which of these defences would be available to an epileptic who inflicts GBH on V whilst suffering a seizure?

CHAPTER 13 JUSTIFY/EXCUSE

- Is there a difference between excusatory and justificatory defences?
- Where does the burden of proof in relation to the 'defence' of consent lie?
- What are the two sources of law for self-defence/prevention of crime?
- How is 'reasonableness' of the force used in self-defence assessed?
- If a defendant is correct in his belief that some force is needed in self-defence, but he seriously misjudges the amount of force used, and uses far too much, will his defence succeed, fail or reduce liability?
- What are the two different types of duress?
- When can a defendant rely on the defence of duress? Be specific and cite authority.
- Where does the burden of proof in relation to duress lie?
- What arguments exist in favour of the proposition that necessity is a separate defence to duress?

