

## AS Law – Exam Focus

- Possible Paper 1 questions
- Focus on statutory interpretation questions
- Possible Paper 3 questions
- Focus on non fatal offences and tort. These are always on the exam paper.



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## Paper 1

- Potential areas are:
- Precedent
- Legislation
- Delegated Legislation
- Statutory Interpretation
- Law Reform
- European Law

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## Precedent Questions

- Explain how the system of precedent operates
- Explain and comment on the ways judges may depart from precedent
- Consider the advantages and disadvantages of precedent

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## Legislation Questions

- Explain the legislative process and the role of the House of Commons, House of Lords and the Crown.
- Consider the advantages and disadvantages of the legislative process

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## Delegated Legislation Questions

- Explain the types of delegated legislation (explanation of the Parent Act may be specifically required – should be included in a 20 mark question)
- Explain and comment on the controls which may be used in respect of delegated legislation
- Consider the advantages and disadvantages of delegated legislation

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## Statutory Interpretation Questions

- Explain the rules of interpretation (the questions may limit the number of rules)
- Explain and comment on the aids judges may use when interpreting statutes
- Consider the advantages and disadvantages of the rules of interpretation

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### Law Reform Questions

- Explain the influences operating on Parliament before and during the legislative process
- Consider the advantages and disadvantages of the influences operating on Parliament

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### European Law Questions

- Explain the composition and role of the institutions of the European Union
- Explain the types of law made by the European Union
- Consider the effect that membership of the European Union has had on Parliamentary Sovereignty

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### Paper 1 – General advice

- For all explanation questions candidates must use illustration of key points to achieve high grades
- Candidates must meet the specific requirements of the advantages/disadvantages questions - eg
- Candidates should use illustration in the advantages/disadvantages questions to achieve high grades

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### Paper 1 – Statutory Interpretation

- Each rule should be explained and illustration should be provided
- Literal rule – judge applies the ordinary, dictionary meaning regardless of whether this leads to an absurdity – Lord Esher “If the words of an act are clear then you must follow them even though they lead to a manifest absurdity. The court has nothing to do with the question whether the legislature has committed an absurdity” - potential examples include Fisher v Bell, Whiteley v Chappell, LNER v Berriman – include in the explanation the words the judge was interpreting eg in Whitley v Chappell the words the judges had to interpret were “any person entitled to vote”

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### Paper 1 – Statutory Interpretation

- Golden rule – candidates should explain both the broad approach and the narrow approach and provide case illustration for each approach
- Mischief rule – candidates should explain that this requires look back to when the Act was made to determine the “gap” in the law the Act was meant to fill – explain the rules in Heydon’s case and provide case illustration
- Purposive approach – candidates should explain that this requires the court to consider what Parliament was intending to achieve – mention that this approach is used in most European countries – becoming increasingly popular – provide case illustration – could use a quote eg Denning

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### Paper 3

- This paper has 2 questions – one on crime and one on tort – some of the questions require application to a scenario
- Candidates have to answer all questions
- Important paper – worth 40% of AS

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### Paper 3 – Crime Questions

- Explain what is meant by actus reus
- Explain what is meant by mens rea
- Consider whether an omission to act can lead to criminal liability
- Explain the meaning of strict liability
- Explain the requirement of coincidence of actus reus and mens rea
- Explain and apply the law relating to non-fatal offences
- Explain and apply the law relating to causation
- Explain and apply the potential range of sentences available

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### Paper 3 – Non fatal offences

- This question requires the candidate to explain the actus reus and mens rea of an appropriate offence
- Identify the correct offence – explain the actus reus and mens rea providing case illustration and consider whether the defendant has committed the actus reus and whether he/she has the required mens rea
- Common weaknesses in answers include incorrect explanation of the actus reus and mens rea, lack of supporting authority and lack of application

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### Paper 3 – Non fatal offences

- Identifying offences
- Assault – the victim is frightened, shaking with fear, running away
- Battery – unwanted physical contact – pushing, slapping
- S.47 – minor physical or psychological harm eg bruising, abrasions, breaking of small bones
- S.20 and 18 – cuts to the skin (wounding) and/or serious physical or psychological harm – probably requires medical treatment – includes diseases eg Dica HIV, broken bones, mental breakdown
- Section 18 offences will usually be indicated by the involvement of a policeman or through use of a weapon such as an iron bar

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### Application of non fatal offences

- Jamal, a man of middle-eastern appearance, was walking to work when Sam ran up behind him. As he ran up, Sam shouted racial abuse and made suggestions that Jamal was a terrorist. Jamal was afraid that Sam was going to attack him, so he ran across the street without looking. Unfortunately, he ran in front of a moving car and suffered a badly broken leg. (June 2006)

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### Paper 3 – Tort Questions

- Explain and apply the law concerning duty of care
- Explain and apply the law concerning breach of duty
- Explain and apply the law concerning causation – factual and legal
- Explain how the court will apportion damages to a successful claimant

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### Paper 3 - Tort

- Duty of care – candidates must explain, illustrate and apply each part of the three stage Caparo test and conclude whether a duty is owed
- Harm must be reasonably foreseeable – Kent v Griffiths – Jolley v Sutton LBC, not just a possibility Topp v London Country Bus Ltd
- There must be proximity of relationship – Donoghue v Stephenson – victim must be identifiable individually or as a member of a class likely to be affected and not completely unknown as in Hill v CC South Yorkshire
- It must be fair, just and reasonable to impose a duty – Hill v CC South Yorkshire – eg cannot be a duty too difficult to meet

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### Paper 3 - Tort

- Breach of duty – standard applied is that of the reasonable man – did the defendant behave as the reasonable man would have done?
- Factors to consider include
- Likelihood of the risk – Bolton v Stone
- Magnitude of the risk – Paris v Stepney
- Cost/practical difficulty of eliminating the risk – Latimer v AEC
- Benefit in taking the risk – Watt v Herts
- The standard to be expected of an expert - Bolam

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### Application

- Abdul invited his neighbour’s children to swim in his pool. Abdul had just finished cleaning around the pool, and the surrounding paving was very slippery. As the children ran in, he shouted to them to be careful as the surround was slippery. Tom, aged four, immediately slipped and suffered a broken leg. (June 2007)

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### Application of duty of care

- Harm must be reasonably foreseeable. Identify what the defendant has done wrong and consider whether harm is reasonably foreseeable in such circumstances.
- Proximity of relationship. Consider whether the victim in the scenario is someone who the defendant should have realised would be likely to be affected by his/her actions.
- Fair, just and reasonable to impose a duty. Consider what the defendant should have done and whether it is reasonable to expect this.

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## Application of breach

- Introduce the answer with reference to the reasonable person.
- How likely was the incident to happen?
- How serious was the damage/injury likely to be?
- What cost or effort was involved in eliminating the risk of the incident?
- Was there any justification for taking the risk?
- If the defendant is an expert, compare him/her to the average expert
- Has the defendant acted as the reasonable person would have done?

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