

APPLICATION SKILLS

G141 Section B part (b) questions &
G142 part (b) questions

G141 Section B part (b) questions

- Worth 9 marks each – 1/2 of part (a) marks
- All about application skills
- Build on knowledge from part (a) questions
- But do not require all knowledge needed for answers to part (a)
- Can employ skills used in G142 part (b) questions
- Some areas are more likely to come up on part (b) questions than others

Section B – part (b) questions

- AO2 only – so note the command word (in January & June 2007 was **Explain**)
- No marks for AO1 so try to avoid narrative and get straight into application
- The best answers apply the appropriate rules to the facts in the scenarios and reach conclusions
- Only 10 minutes – so will not need all the material in the answer to part (a) – so again must be selective

Example – Section B part (b) question

Jade (aged 25) is convicted in the Crown Court of the serious offence of robbery. She has several convictions for theft. Explain which would be the main aims and factors likely to be used when deciding the sentence for Jade.

- The key facts are that Jade is an adult, has committed a serious offence, and has several previous convictions

-
- So Jade is more likely to receive a sentence aimed at retribution than one aimed at rehabilitation – and a harsh sentence rather than a light sentence
 - The need to punish is linked to the seriousness of the offence as well as her past record – prison is clearly an option
 - Since robbery is a violent crime the court may feel also that the public need to be protected

-
- Rehabilitation is unlikely to work if she has not responded in the past
 - Individual deterrence is also unlikely for the same reason – however, general deterrence may be an issue
 - Reparation may also be considered
 - Her past sentences need to be looked at as her latest offence is more serious
 - Her background also needs to be looked at

Example 2 – Section B part (b) question

- **7(b) [January 2007] –**
Scott has been charged with the theft of a laptop computer worth £800 and has decided to plead not guilty to the charge. Explain the factors which may determine the court in which Scott would be tried.
- The answer depends on information supplied for part (a) answer i.e. identifying category of offence from facts, and applying mode of trial procedure

- Robbery = triable either way offence – so could be heard in Magistrates' Court or Crown Court
- Scott has pleaded not guilty so which court depends on:
 - value of goods
 - circumstances of theft
- Conclude that Magistrates will probably have jurisdiction – so will leave choice of court to Scott

- Scott will have to consider advantages/disadvantages of each court:
- Magistrates' Court:
 - quicker to trial
 - lower sentences
 - less publicity
 - less formal and intimidating
 - **BUT** greater chance of being convicted

- Crown Court:
 - Jury trial
 - Better quality advocacy
 - Better chance of public funding
 - Greater chance of acquittal
 - **BUT** much slower process and greater sentencing powers
- No need to reach conclusion

G142 part (b) questions

- Worth 15 marks each – 1/4 of marks
- All about application skills – AO2 – so note the command
- No marks for AO1 so try to avoid narrative
- The best answers apply the appropriate rules to the facts in the scenarios and reach conclusions
- Only 15 minutes –so must be selective
- And make full use of information in source

Answering on e.g. precedent

Precedent part (b) questions focus on either:

- individual courts – in which case you will have to identify whether the court can change the precedent
- E.g. *The Court of Appeal (Civil Division) hears a case and wishes to change depart from the precedent in an earlier case in the same court*
- Answer: must say that CA (Civ Div) cannot depart except under 3 conditions in *Young*

-
- E.g. *Court of Appeal wishes to depart from a previous House of Lords precedent to help the law develop*
 - Answer: must say that CA is lower than HL in hierarchy than HL so cannot – but might refer to *James & Kamiri* following Privy Council in *Holly* and effectively overruling HL in *Smith*

Alternatively may focus on dates to bring in the Practice Statement:

- E.g. *The House of Lords in 1957 wishes to change the precedent in a House of Lords case from 1929*
- Answer: must say that HL did not have the power to depart before Practice Statement 1966
- Could add unless decided *per incuriam* or could refer to distinguishing

-
- E.g. *The House of Lords in a 2007 case wishes to depart from the precedent in a House of Lords case from 1929*
 - Answer: must make reference to the power of HL to depart since the Practice Statement 1966
 - Also should make reference to the reasons given in the Practice Statement – to avoid injustice in the present case or to aid the development of the law

Answering on e.g. statutory interpretation

- Statutory interpretation questions require you to use the rules (literal, golden, mischief, purposive approach)
- So should refer to all in each part of the question – if only to say that the result would be the same whichever of the rules are used – and of course to say why
 - And should use source if appropriate e.g. *Smith v Hughes* and one question concerns someone soliciting from an upstairs window

(Example of material in source) *Adler v George* involves a person who was convicted under the Official Secrets Act (using the golden rule) of 'interfering with a sentry in the vicinity of a prohibited place (a military base) when he had actually broken into the base

- E.g. *Sid who has tunnelled under a military base has been charged with the offence because he was 'in' not 'in the vicinity of' the base*

- Answer: must identify that conviction under the literal rule is impossible – but result is absurd so narrow approach of golden rule may give different result – or broad approach can use policy for a conviction – or under mischief rule or purposive approach a conviction is possible because it is what the provision was intended to cure