

UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Subsidiary Level and Advanced Level

LAW

9084/02

Paper 2 Data Response

October/November 2006

Additional Materials: Answer Booklet

1 hour 30 minutes

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question.

At the end of the examination, fasten all your work securely together.

The number of marks is given in brackets [] at the end of each question or part question.

This document consists of **5** printed pages and **3** blank pages.



Answer **either** question 1 **or** question 2.

You should make appropriate reference to the source material supplied after each question.

- 1 Jenna agreed to rent a room from Mike on a short-term lease, sharing a kitchen and bathroom with other tenants. She has been in the property for six weeks and has had some problems. The washing machine, which Mike installed for use by the tenants, regularly floods the kitchen. The boiler is choked with soot and cannot be used for hot water or heating. This means that Jenna needs to travel two miles to her parents' house each evening to have a bath.

A week ago Jenna decided to have a party. During the party her guests flushed crushed paper cups and left-over food down the lavatory, causing it to block, and it has not worked since the party. In addition, on leaving the party one drunken guest smashed a glass interior door.

Because there is no heating Jenna feels that it is too cold to open the window in her room. The walls are now blackened with mould.

Jenna has asked Mike to carry out all the above repairs. He says they are her responsibility and she must do them herself.

- (a) Identify the repairs for which Mike, as the landlord, may have responsibility according to the Landlord and Tenant Act. [5]
- (b) If Jenna disagrees with Mike's assumptions regarding the repairs, which aids to statutory interpretation would assist her case? [5]
- (c) State and explain the presumptions of statutory interpretation. [5]
- (d) Discuss whether Jenna would be better advised to pursue her complaints through the courts or by other means. [10]

Source 1

Extracts from the Landlord and Tenant Act 1985

s.11 Short-term lease implies a covenant (or legally binding promise) by the landlord:

- (1) (a) To keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes); and
- (b) To keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity, and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity); and
- (c) To keep in repair and proper working order installations for space heating and heating water.

- (2) The covenant implied by subsection (1) shall not be construed as requiring the landlord:
- (a) to carry out works or repairs for which the lessee is liable by virtue of his duty to use the premises in a tenant-like manner, or would be so liable but for an express covenant on his part,
 - (b) to rebuild or reinstate the premises in the case of destruction or damage by fire, or by tempest, flood or other inevitable accident, or
 - (c) to keep in repair or maintain anything which the lessee is entitled to remove from the dwelling-house.

- 2 Devon, aged 22, was involved in a dwelling-house burglary in which various items of personal property were stolen, all of which were recovered by the police. He admitted that he had acted as a look-out while his 14 year-old-cousin Ben entered the house through a bedroom window. In due course they both appeared at Ealing Crown Court.

Devon pleaded guilty to one count of burglary. He has two previous convictions for burglary, one in 2003 and one in 2005, and he thought the court might look more favourably upon him if he owned up.

Devon is currently unemployed and lives with his girlfriend in a one-bedroom flat in Ealing. He does not receive welfare payment and his girlfriend's parents give them money towards shopping bills. His own parents, who are elderly and in poor health, live nearby.

Ben is found guilty of the burglary and is remitted back to the Youth Court for sentence. He has no previous convictions but he has been excluded from school for threatening to stab a teacher. He now attends the Castle Project, an educational centre for children with behavioural problems.

- (a) Discuss the aims pursued in sentencing criminal offenders. [10]
- (b) The pre-sentence report submitted to the court states that Devon would be suitable for a Community Punishment Order as he is unemployed and has the time to carry out the order. What, if anything, would prevent the court from following this recommendation? [5]
- (c) Consider what sentencing options are available in respect of Ben. Are there any limitations on the sentences which can be imposed on him? [10]

Source 2.1

Powers of Criminal Courts (Sentencing) Act 2000 Section 111

- (1) This section applies where ...
- (a) At the time when that burglary was committed, s/he was 18 or over and had been convicted in England and Wales of two other domestic burglaries; and
- (b) One of those other burglaries was committed after s/he had been convicted of the other, and both of them were committed after 30 November 1999.
- (2) The court shall impose an appropriate custodial sentence for a term of at least three years except where the court is of the opinion that there are particular circumstances which ...
- (a) relate to any of the offences or to the offender; and
- (b) would make it unjust to do so in all the circumstances.

Source 2.2**Powers of Criminal Courts (Sentencing) Act 2000**

s.100 Where ...

- (1) (a) a child or young person (that is to say, any person aged under 18) is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, the sentence that the court is to pass is a detention and training order ...
- (2) A court shall not make a detention and training order ...
 - (a) in the case of an offender under the age of 15 at the time of the conviction, unless it is of the opinion that he is a persistent offender;
- (3) A detention and training order is an order that the offender in respect of which it is made shall be subject, for the term specified in the order, to a period of detention and training followed by a period of supervision.

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