Wednesday 11 May 2011: 10.00 – 13.15

Candidates will have fifteen minutes during which they may read the paper and make rough notes ONLY in their answer books. They then have the remaining THREE HOURS in which to answer the questions.

Candidates should answer FOUR of the following EIGHT questions.

Candidates should answer all parts of a question unless otherwise stated.
1. At a party, Pam was drinking a lot of alcohol and, during the course of the evening, she eventually became too drunk to stand unaided and fell over. Bob, who had always liked her, helped her to go upstairs and then, as she just giggled sleepily and did not protest, had sexual intercourse with her. Bob later said that, as she did not resist his advances, he thought that she was consenting. Pam claims to have been in a drunken stupor at the time.

Pam’s boyfriend, Gus, was angry when he found out what had happened. He telephoned Bob and said, “I am going to come and get you soon – just watch out!” Bob became very nervous and did not leave his house for over a week. When he did so, the first person he met was Pam, who happened to be passing. On seeing him she became very angry and hit him in the face with her handbag. Bob suffered a black eye.

Discuss the criminal liability, if any, of the parties.

2. How would you distinguish between the defences of diminished responsibility and insanity?

3. Amanda and Michael were giving Nick a lift home from the pub in their car. Amanda, who had not been drinking alcohol, drove into a petrol station. While she was filling the tank and paying for the petrol, Michael lit a cigar and would not put it out when Nick told him to. Nick got angry and shouted at Michael and so Michael got out of the car to finish his cigar in peace. Nick followed him and started pushing and shoving him and calling him names. Michael punched Nick and, as he went to punch Nick again, Nick kicked him in the stomach causing him to fall over. As he fell, he knocked his head against a petrol pump, fracturing his skull. Amanda, who saw what was happening and was frightened that Nick would kick Michael again, ran over and hit Nick on the side of his head with an umbrella she had bought when she paid for the petrol. This caused Nick to suffer from temporary deafness.

Discuss the possible criminal liability of Amanda and Nick.
4. Donald went into Florrie's supermarket, intending to steal anything that attracted him.

While in the supermarket, Donald picked up some cheese which he put straight into his pocket. He was spotted by a store detective who approached Donald and asked him to explain what he was doing. Donald pushed the store detective to one side and ran off.

Feeling very pleased with himself, Donald went to a local department store to buy some clothes. After he had chosen a number of items he realised that he had no cash with him. He used his credit card to pay for the clothes, despite having received a letter from the bank that morning telling him that he had gone beyond his credit limit and that he must not use the card again.

Donald then used some foreign coins in a vending machine to obtain a bar of chocolate. He was unsuccessful.

Discuss the criminal liability, if any, of Donald.

5. Susie was bored with her husband, Pete, and frequently told him so. She often said to him that she wished he would go and live somewhere else. One evening, just after they had eaten, she taunted him continuously about his lack of sexual prowess until he became very angry and came towards her with his fists raised. Susie, who thought he was going to punch her, lost control. She grabbed a knife which had been left on the table and, intending to cause Pete serious harm, stabbed him, killing him instantly. Susie has been charged with murder and wishes to plead the defence of loss of control.

Advise Susie. Do NOT consider the defence of self-defence.

Would your answer differ in the following circumstances:

Susie’s attack was not immediately fatal, Pete was treated, but, while in hospital, the wound became infected and did not respond to medication; Pete died of septicaemia?

6. Under what circumstances may a person be criminally liable for a failure to act?
7. Frank is a former cocaine addict and abuse of this drug over a number of years
has left him unusually paranoid and, thus, very vulnerable. Frank’s next door
neighbour, Grant, whose boyfriend, Robert, had just left him, came to visit
Frank in a very angry and distressed state. Grant told Frank that he wanted
Frank to go and give Robert a ‘seeing to’. By this, he meant that he wanted
Frank to beat up Robert. Frank misunderstood and thought that Grant wanted
him to have sexual intercourse with Robert. Frank did not want to do this but
as he had, for a long time, believed (without foundation) that Grant wished to
kill him, and was scared not to do as Grant had asked, agreed to do so.

Frank went to Robert’s house and, despite Robert’s protests, forced him to
submit to sexual intercourse. Unknown to Frank, Robert had always had a
crush on him and, after pretending to protest, had been happy to submit to
Frank’s advances.

Discuss the possible criminal liability of Frank and Grant.

8. Ruby, who was aged 16 and not very bright, decided to run away from home.
She wandered the streets for a while and became extremely bored. To pass the
time, she carved her initials on some scaffolding and then let down the tyres of
a car which was parked on the street. Fred, the owner of the car, saw what she
was doing and remonstrated with her and so she shook her fist at him, spat at
the briefcase he had just put down and ran away. Fred then had to wash the
spittle from his briefcase.

By the time night fell, Ruby was cold, tired and hungry. She decided to go
and shelter in her next door neighbour’s garden shed until her parents went to
bed and then creep into her house to sleep.

Unfortunately, the shed door was locked but she managed to break it and get
into the shed. She liked her next door neighbour and thought he would not
mind her doing that.

She was still very cold. She lit a fire using an old newspaper and some white
spirit which she found in the shed. The resulting fire quickly went out of
control causing damage to the shed and its contents.

Consider Ruby’s possible criminal liability.

END OF PAPER