

Answers to self-test questions

Chapter 2

1. Name the three different types of *actus reus* elements.

Conduct, consequences, and circumstances

2. What does the phrase “there is no duty of easy rescue” mean?

There is generally no liability for an omission to act in criminal law in England and Wales. The law requires a positive act before criminal liability is imposed.

3. Explain when a defendant will be criminally liable for an omission to act.

There are a number of exceptions to the general rule that there is no liability for an omission to act. Such liability may be imposed where there is a duty on the defendant to act and he fails (omits) to do so. There is a duty on the defendant to act in the following scenarios:

- Special relationships: e.g., *Gibbins and Proctor* (1918)
- Where the defendant has voluntarily assumed responsibility of the victim: e.g., *Stone and Dobinson* (1977)
- Where the defendant has a duty to avert a danger he created himself: e.g., *Miller* (1983)
- Contractual duty: e.g., *Pittwood* (1902)
- Public duty: e.g., *Dytham* (1979)
- Statutory duty

4. Explain the legal principle derived from the case of *Stone and Dobinson* (1977).

Where a person voluntarily assumed responsibility for another person, he may be criminally liable for an omission to act to help the person which leads to the death of that person. This principle applies even if the person is not a blood relation to the defendant.

5. What is the test for factual causation? Cite an authority to support your answer.

The “but for” test. The case of *White* (1910) is an example of a situation in which factual causation could not be established.

6. What test(s) is/are applied in relation to legal causation? Cite authorities to support your answer.

The *de minimus* principle states that the defendant’s conduct must be a more than minimal cause of the result: *Cato* (1976) and *Kimsey* (1996). The defendant’s act must be an “operating and substantial” cause of the result: *Smith* (1959); it must make a “significant contribution” towards the result: *Pagett*: (1963).

7. Explain when the chain of causation will be broken.

The chain of causation may be broken where the defendant does a voluntary act which is “daft” or not reasonably foreseeable: *Roberts* (1971); *Kennedy* (2007). A third party may break the chain of causation by a voluntary act which is “free, deliberate and informed”: *Pagett* (1963). Negligent medical treatment which is so independent of the defendant’s act and so potent in causing death that it renders what the defendant did insignificant: *Cheshire* (1991). A natural act which is not reasonably foreseeable will break the chain of causation.

8. What is the thin skull rule? Cite an authority for this.

This is the rule that you must “take your victim as you find them”: *Hayward* (1908). This means that where the defendant suffers from a latent pre-existing condition which makes them more susceptible to death or injury, the defendant is not absolved from liability for the consequences. The case of *Blaue* (1975) extended this principle to cover religious beliefs – “The whole man, not just the physical man”.

9. Explain the relevance of the case of *Cheshire* (1991). What is the test arising from this case?

This is the leading authority on negligent medical treatment and causation. Negligent medical treatment will generally not break the chain of causation

unless it is so independent of the defendant's act and so potent in causing death that it renders what the defendant did as insignificant. This is the independence/potency test.

10. What is a "state of affairs" crime?

An offence which requires only proof of circumstances. The *actus reus* of a state of affairs crime requires proof of surrounding circumstances, but there is no need to prove any consequences or conduct. E.g., being in charge of a motor vehicle on a road or public place whilst unfit to drive through drink or drugs, contrary to s.4 of the Road Traffic Act 1988. See *Winzar v Chief Constable of Kent* (1983) and *Larsonneur* (1933).