

**CRIMINAL LAW**

**MODEL EXAM**



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## IRAC method of completing exams

- Issues** - Outline the issues that you are going to discuss.
- Rules** - Define the legal rules that are relevant to the question.
- Application** - Apply the legal rules to the facts of the question (this is the hard part!).
- Conclusion** - Tie things up, usually in the form of an advice to your hypothetical client.

Always use your reading time wisely to **PLAN YOUR ANSWER** before writing. This is of utmost importance as it will help you clarify your thoughts and ensure that you avoid following desperate exam strategies that unprepared students commonly resort to, such as:

- i) 'the kitchen sink' i.e. spilling all of your knowledge that is vaguely related to the topic onto the exam paper and hoping for the best.
- ii) 'the garden path' i.e. going off on an irrelevant tangent

Remember that the **APPLICATION IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. Almost remember during the application section, make sure you show evidence that you are applying the relevant legislation and cases by citing them directly. The actual conclusions you reach are often superfluous. Rather, your marker will be most interested in *how you arrived* at your conclusion.

### ***Exam tips***

- There are two types of common exam questions in criminal law:
  - **Policy questions:** where you bring your knowledge on the area or a “do you think” type of question where you bring knowledge from all throughout the course. It is important to develop an argument rather than to tell facts, a good response will try to use the introduction and conclusion to demonstrate the arguments (e.g. intro discuss what you are trying to argue so you can tell what the readers to look for and the conclusion shows that what you said in the introduction).
  - **Problem question:** make sure you always discuss legislation first and then case law where it is relevant to the legislation.
- Read the question carefully as the problem question may allow you to assume that certain elements of an offence are satisfied such that you do not need to discuss it, leaving you more time with other elements of the offence.
  - E.g if a problem says “A kills B and the injection caused the death” you should be able to assume that causation is satisfied and can state that assumption you have made.
- It is best to write out all elements of the offence first and then apply them instead of discussing each element and then apply each.
- If you are sitting an open book exam, be sure to have concise notes with only the main points for each topic. Too much time will be wasted searching through thick textbooks.
- Try to answer the question yourself first before looking at the answer. Do not worry if you do not come up with the same amount of text as is in the answer below. The student who wrote this answer had a considerable amount of time in which to write. Good luck!

### ***Question One***

Veronica is a well published and respected academic at a university in New South Wales. Veronica has been under increased pressure from publishers of late to finish her latest book which are expected to generate huge sales and academic success. She decides to work late, at her office, to finish the manuscript which is due the next day by close of business.

Veronica has been on medication to deal with severe arthritis and pain she has been experiencing for a number of years. The medication is strong and directions on the label of the medication recommend that one tablet is taken three times a day with food. Furthermore, the label recommends that anymore than 6 a day can cause black outs, dizziness, and in extreme cases, hallucinations. There is a warning on the label that taking the medication with alcohol increases the potency of the dose to unsafe levels and heightens side effects.

The night Veronica was working late was particularly cold and the heating in her office was not working. Veronica's arthritis tends to flare up when it is cold and Veronica was finding it difficult to type from the pain of the arthritis. She had taken the three tablets during day as directed but felt no relief. She decides to take two tablets. She washes the tablets down with a glass of wine she was drinking. Veronica finds that, especially on cold nights, a glass of red helps her to concentrate and lets her creative juices to flow. An hour after taking the first two tablets Veronica takes another two tablets with another glass of wine to speed up the pain relief of her arthritis.....

### **Question Two**

Mary meets Florian at a group therapy session for victims and survivors of childhood abuse at their local community centre in Marrickville, New South Wales. They had both been attending the sessions for six months after being referred to the group by their individual counsellors. Florian and Mary got on well at meetings and one day Florian offered to meet Mary in addition to the sessions to discuss their problems as survivors of childhood abuse. Mary told Florian of her inability to trust men, maintain long term friendships and hold down a stable job. The pair got along famously and the individual meetings were helping their progress, especially Mary. One day at his apartment, after one of their meetings, Florian asked Mary out on a date. Mary accepted. After their date Florian invites Mary back to his apartment for a coffee, he tells Mary that he recently purchased a new espresso machine. Mary tastes the coffee and asks Florian if there was alcohol in the coffee. She explains to Florian that she is a reformed alcoholic and cannot have alcohol. Florian denies there was alcohol in the coffee explaining that it was an Irish coffee flavour he added to the espresso. Mary is not too sure but in an effort to trust Florian she drinks the coffee. The coffee in fact contained whisky. Mary began to feel loose, uninhabited and relaxed. She begins to drift off. Florian begins kissing Mary all over and has intercourse with her.

The next morning Mary awakes not remembering much from the night before. She sees an almost empty bottle of whisky in the apartment and feels sore all over. She eventually realises that Florian had tricked her into having sex and drinking. Mary left the apartment and went home. In her bathroom mirror she notices large bruises all over her body, but particularly on her back. She reports the incident to the police.....

### **Question Three**

Bella owns a retailing business which specialises in preserving fruit and producing high quality fruit infused bakery goods for domestic consumption. She operates her business in New South Wales. Following the recent banana shortage after Cyclone Larry she has

been importing bananas for use in the products she produces. She does this often for speciality fruit from all over the world. Recently, the NSW Department of Primary Industries issued a memorandum to all licensed importers of fruit in NSW that bananas and selected stone and citrus fruits pose a quarantine and pest threat to local crops and human health. Specifically, the memorandum stated:

*... Scientific studies, and professional advice to the Department, have revealed that fruits, especially bananas, stone fruits and citrus fruits, imported to Australia from Asia are a significant pest risk threat to Australian flora, especially agriculture crops, and also poses a threat to human health. The Department considers this a very serious matter and warns strictly that any fruit, whether frozen or not, is not fit for importation or consumption. The Department has serious powers at its disposal to prosecute individuals who import banned fruit from Asia. The Department is allowing individuals in possession of imported fruit until 1 October 2006 to dispose or export existing fruit. After that date the Department will pursue prosecutions seeking severe penalties against individuals in breach of the ban. It is a matter of national significance to protect Australian produce from these pest risks.*

Bella has just received a large shipment of frozen bananas from the Philippines. Bella does not believe that frozen bananas pose as great a threat as the Department would have her believe. She remembers reading in the *Boutique Food Industry Monthly* that frozen fruit from abroad, when used in either preserving or baking, is the safest way to ensure quality products free of disease. The article was written by a leading food scientist whose speciality is disease risks in fruit. The article concluded that technology is such to isolate potential disease risks in modern freezing techniques and that Governments were lagging behind instead playing populist politics to domestic agricultural producers.....

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