

## Answers to self-test questions

### Chapter 4

**1. Explain the difference between strict liability and absolute liability.**

Strict liability offences do not require proof of *mens rea* in respect of at least one element of the *actus reus*. However, proof of *mens rea* may be required for some of the elements of the *actus reus*. Absolute liability offences do not require proof of any *mens rea* element, but are satisfied by proof of the *actus reus* only.

**2. Give examples of absolute liability offences.**

Drink-driving under s.4(1) of the Road Traffic Act 1998, being drunk on the highway, contrary to s.12 of the Licensing Act 1872 (*Winzar v Chief Constable of Kent* (1983)).

**3. When may the presumption of *mens rea* be displaced? Cite case law.**

Where this is clearly or by implication the effect of the statute and the statute is concerned with an issue of social concern, and public safety is such an issue and the creation of strict liability will be effective to promote the objects of the statute by encouraging greater vigilance to prevent the commission of the prohibited act: per Lord Scarman *Gammon (Hong Kong) Ltd v Attorney General of Hong Kong* (1985).

**4. What types of offences are usually strict liability offences? Give examples.**

Regulatory offences, such as offences relating to licensing, pollution, health and safety, driving offences, environmental offences, public health offences.

**5. What issues of social concern might an offence of strict liability deal with? Cite case law.**

Alcohol abuse: see *Cundy v Le Cocq* (1884), consumer protection: see *Smedleys Ltd v Breed* (1974), misuse of drugs: see *Warner v Metropolitan Police Commissioner* (1969), road safety, prevention of pollution: see *Alphacell Ltd. v Woodward* (1972), underage gambling: see *London Borough of Harrow v Shah and Shah* (1999).

**6. Consider the advantages and disadvantages of strict liability.**

<b>Advantages</b>	<b>Disadvantages</b>
Protection of the public	Violation of <i>actus non facit reum nisi mens sit rea</i>
Easier to prove	Punishing reasonable behaviour
Small penalty	Stigma of a conviction