

OCR

Oxford Cambridge and RSA

Tuesday 13 June 2017 – Afternoon

A2 GCE LAW

G157/01 Law of Torts

Candidates answer on the Answer Booklet.

OCR supplied materials:

- 12 page Answer Booklet (OCR12)
(sent with general stationery)

Other materials required:

None

Duration: 2 hours



INSTRUCTIONS TO CANDIDATES

- Write your name, centre number and candidate number in the spaces provided on the front of the Answer Booklet. Please write clearly and in capital letters.
- Use black ink. HB pencil may be used for graphs and diagrams only.
- Read each question carefully. Make sure you know what you have to do before starting your answer.
- Write your answer to each question on the lined pages in the Answer Booklet. The question numbers **must** be clearly shown.
- Answer **three** questions: **one** from Section A, **one** from Section B and **one** from Section C.
- When answering Section A and Section B questions you are required to demonstrate some synoptic thinking. In Section A this is achieved by relevant reference to precedent and/or statutory materials including the development of law and comments on justice or morality, where appropriate. In Section B this is achieved by relevant use of precedent and/or statutory materials in the application of legal reasoning to given factual situations including comment on the justice or morality of the outcome, where appropriate. You are not required to demonstrate synoptic thinking in Section C.
- Do **not** write in the barcodes.

INFORMATION FOR CANDIDATES

- The number of marks is given in brackets [] at the end of each question or part question.
- The total number of marks for this paper is **120**.
- Candidates are reminded of the need to write legibly and in continuous prose, where appropriate. In answering **Section A** and **Section B** questions you will be assessed on the quality of written communication including your use of appropriate legal terminology. These questions are marked with an asterisk (*).
- This document consists of **4** pages. Any blank pages are indicated.

INSTRUCTION TO EXAMS OFFICER/INVIGILATOR

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Answer **three** questions.

Answer **one** question from Section A, **one** question from Section B and **one** from Section C.

You are advised to spend 50 minutes on Section A, 50 minutes on Section B and 20 minutes on Section C.

SECTION A

Answer only **one** question from this section.

- 1*** 'Judicial creativity has shaped the offences of assault, battery and false imprisonment.'

Discuss the extent to which judges have developed the law of trespass to the person. **[50]**

- 2*** Discuss the extent to which the defences of *volenti non fit injuria* **and** contributory negligence limit the claimant's ability to make a successful claim in negligence. **[50]**

- 3*** Discuss whether the factors that are considered when determining if a defendant has unreasonably breached a duty of care operate fairly. **[50]**

SECTION B

Answer only **one** question from this section.

- 4* Reena has been working at Milkeze for the past 2 years. Milkeze Ltd pay her tax and National Insurance and Reena wears a uniform provided for her. Reena fails to wear the hair net provided for her by Milkeze and as a result her hairclip falls into a batch of milkshakes she is making.

Reena offers to give Iain a lift home during the working day using one of the Milkeze delivery vans even though it is against company rules to give lifts to non-employees. Whilst driving, Reena is distracted and crashes the van causing cuts and bruises to Iain.

Charlotte, who is passing by, takes the opportunity to steal Milkeze milkshakes from the back of the van. Reena grabs Charlotte, but Charlotte gets away.

Later that evening, after work, Reena sees Charlotte drinking a Milkeze milkshake. Unknowingly, Charlotte drinks the milkshake that contains the hairclip and the hairclip causes her injury.

Charlotte and Reena get into an argument and Reena punches Charlotte in the face breaking her nose.

Advise whether Iain **and** Charlotte will be able to bring any successful claims against Milkeze Ltd. **[50]**

- 5* Callum and Toby visit an air show. During one of the air displays Callum witnesses, from behind the safety barrier, a plane losing control and crashing. This causes Callum to suffer from anxiety.

The crashed plane catches fire. An announcement is made that the fire has spread to some nearby houses. Toby knows that his friend, Matthew, is watching the display from one of these houses.

Matthew manages to escape from his burning house and finds Toby. Matthew is covered in blood and soot. The shock of seeing his friend like this causes Toby to be seriously upset and later he becomes depressed.

Matthew is shocked by the events and the loss of his house. He suffers post-traumatic stress disorder and insomnia.

Advise whether Callum, Toby **and** Matthew will be able to bring successful claims for nervous shock (psychiatric damage) against the air show organisers. **[50]**

- 6* Lara enters Peter's field and decides to have a barbecue there in the middle of the day. Smuts from the barbecue travel onto Carole's land next door and damage the clothes on her washing line. Whilst eating, Lara plays loud music which disturbs Carole. This causes Carole particular distress as she suffers from headaches that are made worse by loud noise. After her barbecue Lara forgets to take her picnic blanket with her and leaves it in Peter's field.

Lara flies a kite whilst walking home. The kite flies over Carole's property.

Peter is so upset by people using his field to have barbecues that he puts up a large 'Private Property' sign. Peter has dug the sign into the ground at such an angle that it has entered Carole's land under the surface of the ground.

Advise whether Peter **and** Carole will be able to bring successful claims under the torts of trespass to land **and** private nuisance. **[50]**

SECTION C

Answer only **one** question from this section.

- 7 Jennifer, aged 35, owns a crocodile which she keeps on her land. Arthur comes onto Jennifer's land uninvited and is bitten by the crocodile. Jennifer also owns a horse. The horse chases Arthur, knocks him over and tramples him as he tries to run away. The horse is known by Jennifer to have an unusual habit of attacking people who are running.

Evaluate the accuracy of **each** of the four statements A, B, C, and D individually, as they apply to the facts in the above scenario.

Statement A: Jennifer is not liable under section 6(2) of the Animals Act 1971 for the crocodile bite to Arthur because a crocodile is not classified as a dangerous animal.

Statement B: Jennifer is not liable for the crocodile bite to Arthur because Arthur was a trespasser.

Statement C: Jennifer is liable under section 2(2) of the Animals Act 1971 for the injury caused by her horse because the damage caused is likely to be severe.

Statement D: Jennifer is not liable for the injury caused by her horse because the horse's characteristic was unusual. **[20]**

- 8 Kadri works in investment banking. One evening over dinner Kadri's friend Sam asks for his professional advice on whether he should invest in a new IT company. Kadri advises Sam that he should invest a large amount as he could make a lot of profit, even though Kadri is aware that Sam could risk losing all of his money. Sam does invest a large amount of money but the IT company fails to make any profit and Sam loses all of his investment.

Evaluate the accuracy of **each** of the four statements A, B, C, and D individually, as they apply to the facts in the above scenario.

Statement A: Sam will be able to succeed in a claim against Kadri even though he has only suffered a purely economic loss.

Statement B: Sam will not be able to succeed in a claim against Kadri because Sam is not Kadri's client.

Statement C: Sam will not be able to succeed in a claim against Kadri because the advice was given in a social setting.

Statement D: Sam will not be able to succeed in a claim against Kadri because he chose to rely on the advice Kadri gave him. **[20]**

END OF QUESTION PAPER

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