

To be taken only between ... and ... 2012

A2 GCE LAW

G157/01/I: Law of Torts

Candidates answer on the Answer Booklet

OCR Supplied Materials:

- 18-page Answer Booklet

Duration: 2 hours

Other Materials Required:

None



INSTRUCTIONS TO CANDIDATES

- Write your name, centre number and candidate number in the spaces provided on 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.
- Answer **three** questions; **one** from Section A, **one** from Section B and **one** from Section C
- When answering the following 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.
- If additional space is required, you should use pages 14 to 16 of the Answer Booklet. If you use additional sheets of paper, fasten these securely to the Answer Booklet.
- Do **not** write in bar codes.

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 in continuous prose, where appropriate, in answering **Section A** and **Section B** questions you will be assessed on the quality of your written communication (QWC) including your use of appropriate legal terminology. These questions are marked with an asterisk (*).
- This document consists of **6** pages. Any blank pages are indicated.

Answer **three** questions.

Answer **one** question from Section A, **one** question from Section B and **one** question 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* 'The two principal aims of tort law are to compensate the victim and to deter torts in general.'

Consider the extent to which the doctrine of vicarious liability helps to achieve both of these aims.

[50]

Start your answer on **page 2** of the Answer Booklet.

2* Fear of 'opening the floodgates' has been a major policy factor in the development of the law on liability for economic loss caused by a negligent misstatement.'

Discuss the accuracy of the above statement.

[50]

Start your answer on **page 2** of the Answer Booklet.

3* Discuss the extent to which the law of private nuisance creates an effective balance between the rights of neighbours in their respective use of land.

[50]

Start your answer on **page 2** of the Answer Booklet.

Section B

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

- 4* Two businesses share the same premises on a retail park. Bright Light plc sell light fittings from the first floor. Chemi-Kaze plc sell industrial chemicals and store large quantities of chemicals in the ground floor. A wiring fault in Bright Light causes a fire which escapes down to the ground floor causing damage to Chemi-Kaze. Firemen put out the blaze.

Chemi-Kaze leave large containers of chemicals outside the back door while repairs are taking place to the premises. Some of the containers have become damaged in the fire causing rust to develop from the water. Vandals also knock over some of the containers and unscrew the caps. The chemicals from all the containers then seep out and run along the ground and down a slope and escape into the next unit, Flower Power, a garden centre. The chemicals kill many of Flower Power's stock of plants valued at several thousand pounds.

Discuss the potential liability of Bright Light to Chemi-Kaze and of Chemi-Kaze to Flower Power including any possible defences.

Start your answer on **page 10** of the Answer Booklet.

[50]

- 5* A ladies' football league cup final is being contested between two teams, the Wanderers and the Lilywhites. In an early chance the Wanderers' striker, Emma leaps to head the ball and clashes heads with the Lilywhites' goalkeeper, Vicki, causing a gash under Vicki's eye. Vicki turns on Emma waving her fists and shouting 'I'll make sure nobody will want to see your pretty face in future'. The next time Emma has a chance of a shot on goal Vicki rushes towards her to prevent a goal. Fearing that Vicki is going to attack her, Emma punches Vicki in the face, knocking her unconscious. The referee immediately sends Emma off. Emma is so angry with this that an official, Uriah, has to drag her off the field, and he then locks her in the dressing room until the end of the match.

Advise Vicki and Emma of any claims that either of them may bring in the tort of trespass to the person.

Start your answer on **page 10** of the Answer Booklet.

[50]

- 6* David takes his young son Eddie to a local theme park, Fundays. David takes Eddie on the 'Fright-of-your-life' roller coaster. Owing to negligent maintenance by Fundays the harness holding Eddie breaks and he plunges to the ground suffering massive injuries. Georgina sees the fall and the injuries to Eddie. She now suffers from post traumatic stress disorder.

David phones his wife Hannah who drives directly to the hospital. She arrives one hour later to find that Eddie has died. She suffers from grief and severe depression. Ian, a paramedic who treats Eddie at the scene, is so horrified by the injuries that he suffers post traumatic stress disorder. David has become withdrawn and terrified of heights.

Advise David, Georgina, Hannah and Ian on any actions they may have against Fundays for their injuries.

Start your answer on **page 10** of the Answer Booklet.

[50]

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Section C

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

- 7 Abid is driving his car at 90 miles per hour at night on the wrong side of the road along a dark country lane. Abid collides with another car being driven by Beatrice. Beatrice's passenger, Claudine, is seriously injured in the collision. Beatrice and Claudine were returning from a party where they had both drunk a large quantity of wine. Claudine had accepted a lift even though she knew Beatrice was over the limit and should not be driving.

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.

Start your answer on **page 18** of the Answer Booklet.

- Statement A:** Claudine has no claim in negligence against Abid as he has not breached his duty of care to her.
- Statement B:** Abid is not liable to Claudine in negligence because he can argue that a *novus actus interveniens* by Beatrice.
- Statement C:** Abid has a defence of *volenti non fit injuria* to any claim by Claudine.
- Statement D:** Abid can use the defence of contributory negligence to reduce damages in any claim by Claudine. **[20]**

- 8 Gordon has paid to stay overnight at the Superposh Hotel. After midnight he goes to the Hotel pool for a swim. A sign on the door reads: 'Pool closed between 7.00 pm and 7.00 am. No entry to visitors during these hours. Dangerous when unattended.' Gordon reads but ignores the sign and enters. He cannot find the light so he jumps in. In fact the pool has been emptied and Gordon is badly injured and blood from his injuries ruins his Armani swimwear which cost £300.

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.

Start your answer on **page 18** of the Answer Booklet.

- Statement A:** Gordon can make a successful claim under the Occupiers' Liability Act 1957.
- Statement B:** Gordon will use ordinary negligence principles in his claim against Superposh.
- Statement C:** Gordon cannot claim damages under the Occupiers' Liability Act 1984 because of the warning notice.
- Statement D:** Gordon can claim for his injury and ruined swimwear under the Occupiers' Liability Act 1984 but Superposh will have a successful defence of *volenti*. **[20]**

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SPECIMEN



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