



Thursday 12 June 2014 – Morning

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 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 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** 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*** “Private nuisance is sometimes said to be based on the ‘law of give and take’. Critics argue that the tort is ineffective as it no longer relies on this principle when disputes arise.”

Discuss the extent to which this statement is accurate. [50]

- 2*** “In vicarious liability reliance on fault is not fundamental. This means that the tort so often works in favour of one party to the detriment of the other, that it is unfair.”

Discuss the extent to which this statement is accurate. [50]

- 3*** Discuss whether the tort of negligent misstatement has become too easy for claimants to prove at the expense of the need to limit these types of claims. [50]

SECTION B

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

- 4* Alexandra, who is 19 years old, competes in pony races and has entered a race at the local countryside show. Her pet pony is young and is always very nervous around other ponies. During the race, the cheers and shouts from the spectators scare the pony which runs off the course and into the crowd. Iain, a spectator, is knocked over and suffers extensive bruising.

In another area of the showground, John, who is 15 years old, is taking part in a competition to show off exotic creatures. He is allowing people to hold his pet baby alligator, against the advice of his mother, Jennifer. As Rebecca is holding the alligator it rips her coat with its teeth.

One area of the showground contains valuable machinery and is clearly fenced off. It is being protected by Andrew, a security guard, with his guard dog. Vicky, who knows Andrew well, goes into the area to speak to him and starts to stroke his dog. The dog thinks Vicky is a threat and bites her on the hand causing a serious injury.

Advise whether Iain, Rebecca **and** Vicky may make any claims under the **Animals Act 1971**.

[50]

- 5* Betty and Desmond own two neighbouring houses. Desmond enjoys flying model helicopters in his garden. Desmond has frequently flown his helicopters over Betty's garden to test his skills. Desmond puts up a large advertising board about the local model helicopter club in his front garden. He attaches one end of the board to one of Betty's fence posts.

Desmond wants to build a patio in a part of his back garden that borders Betty's garden. Betty agrees that he can temporarily take down one of her fence panels to access the area. He takes down the panel and walks on one of Betty's flower beds to work on the patio. To move around more easily, Desmond digs up plants from the flower bed and puts them into his own garden.

When Betty sees this she is furious and starts threatening Desmond from her garden. Desmond is scared and calls the police. Lilly, a police officer, goes into Betty's garden to arrest her.

Advise whether Betty may make any claims in the tort of trespass to land against Desmond **and** Lilly.

[50]

- 6* Adrenalin owns a popular amusement park which consists of rides and gardens. One rainy day, Latisha pays to enter the park. Latisha goes on one ride that has recently been safety-checked by RideFixerz, a well-known national company. One of the bolts on the ride had not been properly tightened and the ride collapses causing Latisha to suffer serious head injuries.

Roy is unwilling to pay to enter the park and so sneaks in through a gap in the fence which seems to have been well-used. In the gardens there are some steep steps. A notice at the bottom of the steps tells people to take care when using the steps and to use the handrail. Despite the rain, Roy runs down the steps. He trips and falls, breaking his arm and his watch.

A party of young children is also visiting the park. The gardens have a number of trees with colourful but poisonous berries. Signs below the trees warn people not to eat the berries. Jacob, one of the children, wanders to the trees and eats a berry, causing him liver damage.

Advise whether Latisha, Roy **and** Jacob may make any claims against Adrenalin under the **Occupiers' Liability Acts**.

[50]

SECTION C

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

- 7** Gary is a lorry driver who is transporting a load of concrete posts. As Gary is driving around a corner the load shifts and one post falls off, due to Gary not having secured it properly. The post hits Hope and Faith, two cyclists, because they are not concentrating due to chatting while cycling. Hope suffers a broken leg. Faith suffers minor internal injuries made much worse by a pre-existing heart condition.

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: Hope and Faith will be able to prove that Gary breached his duty of care in a claim for negligence.

Statement B: Hope will be able to succeed in a claim for negligence as Gary caused her a broken leg.

Statement C: Faith will **not** be able to succeed in a claim for negligence for her worsened injuries.

Statement D: Gary will have to pay the full amount of damages to Hope for her broken leg. **[20]**

- 8** Anjum and Billy are working on a high platform repairing a roof. They have not been provided with safety harnesses. The wind blows Billy off the platform and he is seriously injured when he falls to the ground. Claire, Billy's next door neighbour, who is passing at the time, sees the accident. She immediately phones Pat, Billy's mother, to tell her of the accident. Anjum, Claire and Pat all suffer post-traumatic stress disorders.

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: Anjum will be able to succeed in a claim for nervous shock (psychiatric damage) due to suffering post-traumatic stress disorder.

Statement B: Pat will **not** be able to succeed in a claim for nervous shock (psychiatric damage) as a secondary victim.

Statement C: Anjum will **not** be owed a duty of care in a claim for nervous shock (psychiatric damage) as a primary victim as this type of harm is unforeseeable.

Statement D: Claire will be able to succeed in a claim for nervous shock (psychiatric damage) as a secondary victim. **[20]**



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