

OCR

Oxford Cambridge and RSA

Monday 15 June 2015 – Morning

A2 GCE LAW

G157/01 Law of Torts

Candidates answer on the Answer Booklet.

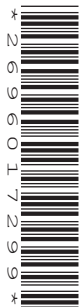
OCR supplied materials:

- 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* 'The rules on causation and remoteness of damage are unfair and do not provide justice for all claimants.' Discuss the extent to which this statement is accurate. [50]
- 2* Discuss the way judges have interpreted the **Animals Act 1971** with regard to non-dangerous animals. [50]
- 3* Discuss the extent to which the tort of *Rylands v Fletcher* still has a role to play in protecting the environment. [50]

SECTION B

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

- 4*** Joe, Kerry and Lydia attend the same college. During a Law lesson, thinking that it would be funny, Joe kept tapping Kerry on the arm with his ruler. Kerry said to Joe, "If the teacher (Mr Morris) wasn't in the room, I would hit you back".

Later that day, Kerry and Lydia were playing tennis during a PE lesson with Mr Morris. While playing, Kerry hit the ball towards Lydia and it hit her in the face. Lydia lost her temper and shouted "I am going to smash you in!" and threw her racket in Kerry's direction.

Mr Morris took Lydia to the changing room and locked her in before phoning the police. He returned and let her out an hour later.

Advise whether Joe, Kerry and Lydia would be successful in any potential claims in the tort of trespass to the person. **[50]**

- 5*** AceArenas Ltd is responsible for the maintenance of the electrical system in a concert area. Due to AceArenas Ltd's negligence, a fire broke out at the front of the arena during a concert.

Kamal was badly burnt in the fire. When he was told the extent of his injuries, he developed clinical depression.

Lisa was sat at the back of the arena and ran forward to try and pull people out of the fire. She became so upset by what she saw she now refuses to attend large concerts.

Kamal's brother, Moheen, was not at the concert. Moheen received a telephone call informing him that Kamal was at the local hospital. When he arrived at the hospital he saw the full extent of Kamal's injuries. He was so shocked that he has since developed post-traumatic stress disorder.

Advise whether Kamal, Lisa and Moheen would be successful in claims for psychiatric damage (nervous shock) against AceArenas Ltd. **[50]**

- 6*** Jakob works as a delivery driver for Saverz Supermarket. His vehicle is provided by the supermarket and tax and national insurance are deducted from his wages.

Jakob has a long list of deliveries and because he is rushing to complete them in time he accidentally scrapes Martin's expensive car.

As Jakob is loading a delivery, he sees Kevin stealing from the van. To stop him, Jakob throws Kevin to the floor, breaking his arm.

Returning from a delivery, Jakob sees his grandmother, Irena, struggling with her shopping. He gives her a lift home which is in the opposite direction to the supermarket. On the way, there is an accident caused by Jakob's negligent driving. Irena is badly injured.

When Jakob eventually returns to the depot his manager, Simon, tells him off for being late. Jakob is angry and punches him hard, breaking his jaw.

Advise whether Kevin, Irena and Simon would be successful in any claims against Saverz Supermarket using vicarious liability. **[50]**

SECTION C

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

- 7 One evening, Alan has a barbecue in his garden. The smoke damages his neighbour, Belinda's plants and stains Alan's fence. With Belinda's permission, Alan enters her garden to replace the stained fence panels but then leaves them on her lawn.

Alan has a radio-controlled plane that he flies across both his and Belinda's gardens at a height of about three metres. Belinda's fruit tree overhangs Alan's garden and he keeps the fruit that has fallen from the tree and cuts off overhanging branches.

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. [20]

Statement A: Belinda would succeed in a claim for trespass to land for the damage done to her plants.

Statement B: Alan is **not** liable for trespass to land in relation to the fence panels.

Statement C: Alan is liable for trespass to land in relation to the flying of the radio-controlled plane.

Statement D: Alan will be liable for the damage caused by removing the branches and the value of the fruit.

- 8 David was taking his daughter Elena, aged eight, to school in his car. She was not wearing a seat belt. As they were late, David was driving very fast. He was unable to avoid Frank who was in the middle of the road on his motorbike, overtaking a car. Frank had seen David approach him but decided to overtake anyway.

Both Elena and Frank were taken to hospital as they were seriously injured. At the hospital the doctors offered Frank a risky operation to limit the extent of his brain injury. Frank chose to go ahead with the operation but it made his condition worse.

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. [20]

Statement A: David will not have the defence of contributory negligence in a claim by Elena.

Statement B: David will have the defence of *volenti* in a claim by Elena.

Statement C: Frank's damages from David will be reduced by 100% through the defence of contributory negligence.

Statement D: Frank does not have a claim for the brain injury as the operation was a *novus actus interveniens*.

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