

OCR

Oxford Cambridge and RSA

Tuesday 12 June 2018 – 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 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 **8** 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*** Discuss the extent to which it is more difficult to prove liability for harm caused by non-dangerous animals than for dangerous animals. **[50]**
- 2*** Discuss whether the tort of negligent misstatement has become over-complex and illogical. **[50]**
- 3*** 'Vicarious liability can be justified as it aims to ensure that damages are paid by those who are in the best financial position to pay them and it also encourages employers to maintain greater vigilance in order to reduce future wrong-doing by employees.'

Discuss the extent to which vicarious liability achieves these policy aims. **[50]**

SECTION B

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

- 4* Frieda is unwell and is taken to hospital. She sees Doctor Hooper, who is a newly qualified surgeon, and Doctor Warren, who has been a doctor for 10 years. Frieda's illness is extremely unusual and both doctors fail to diagnose it correctly. Frieda is told by Doctor Hooper that she needs a brain operation but he forgets to explain all the risks of the operation to her. One of the potential risks is that she may lose her sight. Doctor Hooper carries out the operation but he makes a mistake because of his lack of experience. As a result Frieda loses her sight. The correct diagnosis of Frieda's condition later shows that her illness could have also contributed to her loss of sight. Frieda then suffers hearing loss when she tries to get out of bed before she is fully recovered and falls and hits her head.

Advise Frieda of any potential claim she can make against **Doctor Hooper** in the tort of negligence. [50]

- 5* Alex and Elsie are sitting on the sofa arguing over what to watch on the television. Elsie raises her fist and says to Alex "if we weren't flatmates I would hit you". Alex responds by prodding Elsie in her side. Elsie goes to her bedroom, which is on the ground floor. Alex is so angry with her that he follows her and locks her bedroom door from the outside with the only key. Elsie does not realise that she is locked in. After 10 minutes Alex unlocks the door and enters Elsie's bedroom without knocking. Elsie is angry that Alex has let himself in her room and threatens to hit him with a shoe. Alex believes that Elsie is going to hit him with the shoe so he hits her so hard he knocks her unconscious.

Advise Alex **and** Elsie of any potential claims they can make for trespass against the person including any defences that might be available. [50]

- 6* Serena, aged 5, visits Tryevale Garden Centre with her mother, Jane, and her father, Dave. Serena eats some poisonous berries from a plant which is for sale. There is a sign warning that the berries are harmful. Serena becomes ill. Dave goes to get help and finds an emergency phone. The phone is maintained by approved phone contractors 'FoneFixersRus' who have just serviced the phone system but they did not carry out the work properly. Dave picks up the phone and gets a nasty electric shock and severe burns. Whilst Jane is calling an ambulance on her mobile phone, Serena wanders off and slips through a small gap in some railings and falls into a pond, cutting her leg. Jane goes for help. She goes through a nearby door marked 'STAFF ONLY' to look for a first-aid kit. Jane trips and breaks her wrist and an expensive bracelet she is wearing because the room is unlit, the flooring is uneven and there are empty plant pots scattered everywhere.

Advise Serena, Dave and Jane of any potential claims they can make against Tryevale under the **Occupiers' Liability Acts 1957 and 1984**. [50]

SECTION C

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

- 7 Jacinta is a passenger on a train that comes off its rails and crashes into a railway station due to the negligence of the driver. Jacinta is trapped and suffers claustrophobia. Simon is also a passenger on the train. He suffers serious cuts and Post-Traumatic Stress Disorder (PTSD). Simon's wife, Amber, travels to the railway station to collect him. She cannot get near the station as it is cordoned off. She suffers anxiety when she sees her husband pulled out of the wreckage by Baasim, who is a firefighter at the crash site. Baasim suffers from depression as a result of what he has witnessed.

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: Jacinta **can** claim for nervous shock because she has suffered claustrophobia as a result of the train crash.

Statement B: Simon **can** claim for nervous shock because he is a primary victim.

Statement C: Amber **can** claim for nervous shock because she is a secondary victim.

Statement D: Baasim **cannot** claim for nervous shock because he is a professional rescuer. [20]

- 8 David is playing in a professional football match. An opposing player commits an illegal tackle against David and breaks his leg. David objects to getting on the stretcher as he thinks it looks unsafe. In spite of his concerns, David gets onto the stretcher at the request of the referee as he does not want to hold the game up. The stretcher collapses and causes further injury to David's back. David is driven to the hospital by his friend Henry. David knows that Henry has been drinking. Henry crashes the car causing David a head injury. David is unconscious when he reaches the hospital and the doctors carry out life-saving surgery.

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: David **cannot** successfully claim for his broken leg as he has agreed to the injury by playing in the match.

Statement B: David **can** successfully claim for back injuries even though he voluntarily got onto the stretcher.

Statement C: David **cannot** successfully claim for his head injuries because he chose to get into the car.

Statement D: David **can** successfully claim for the surgery being conducted without his consent. [20]

END OF QUESTION PAPER

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