

Friday 15 June 2012 – Afternoon

A2 GCE LAW

G157/01/I Law of Torts

INSERT – COPY OF QUESTIONS, FOR REFERENCE

Duration: 2 hours



INSTRUCTIONS TO CANDIDATES

- This Insert is for your reference only.

INFORMATION FOR CANDIDATES

- Questions printed within the Question Paper are repeated here.
- You can refer to this copy of the questions to help you when you are answering within the Question Paper.
- 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** from Section A, **one** 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* 'The law on liability for negligent misstatement has developed to become so complicated and unpredictable that it is unfair to victims.'

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

- 2* Discuss how fair the rules on causation **and** remoteness of damage are to **both** parties. [50]

- 3* 'The main aims of the law of torts are to compensate the victim and deter wrongdoing.'

Discuss the extent to which the tort of trespass to the person achieves **both** of these aims. [50]

Section B

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

- 4* Kate has tickets for GlastFest 2012. Halfway through the show, the organisers allow six coach loads of fans into the arena. Kate and other fans are pushed into the stage. The stage collapses and the stage lights fall onto the band. The lead singer, Harry Heartthrob, is crushed by the lighting. He is screaming and lying in a pool of blood. Minnie, the guitarist helps him. She and Harry have been playing in the band for ten years and used to be married.

Minnie is so badly traumatised that she develops depression and is unable to play in the band again. Kate just missed being hit by the lighting rig and cannot get over the traumatic night. She suffers a personality change as a result.

Lorna adores Harry Heartthrob. She saw Harry being injured whilst watching the concert live on TV. She now cannot leave the house as she is overcome with grief.

Advise whether Minnie, Kate and Lorna would be successful in a claim for psychiatric damage (nervous shock) against the GlastFest organisers.

Do **not** discuss vicarious liability.

[50]

- 5* Lisa rents a detached house from her brother Tom. Next door to the house is a shop owned by Mr Xi. One of Mr Xi's customers has reversed his car into the shop fence and knocked it down. Mr Xi has concreted over the fence post holes and has not yet replaced the fence panel which is still lying on Lisa's garden.

Lisa claims that a board advertising the shop, which overhangs the boundary, is ugly and needs to be removed. There are also two fruit trees at the rear of the shop which have branches overhanging Lisa's garden. Mr Xi frequently goes into Lisa's garden and uses his ladder to pick fruit off his trees. He usually leaves his ladder on Lisa's garden, damaging her vegetable patch. Lisa has told Mr Xi not to do this and, one day, she takes his ladder in protest.

Advise whether Lisa may have any claims against Mr Xi in the tort of trespass to land.

[50]

- 6* Cheapsells supermarket has a recycling centre on its land. This includes a can recycling unit and a cooking oil disposal tank which members of the public and the supermarket café use. Harriet owns the neighbouring farm.

During a terrible storm, the top of the can unit breaks loose. Harriet is struck by a can which has blown out of the unit as she tries to protect her prize-winning pumpkins. She suffers a cut face and the top of the can unit smashes the door of her greenhouse.

The heavy rainfall fills the oil disposal tank to the top. Oil then leaks into Harriet's garden, contaminating the soil and destroying the pumpkin crop.

It costs Harriet £5,000 to clean up the contaminated soil and she loses an estimated £1,000 profit which she would have made on the crop.

Advise whether Harriet will be able to bring any successful claims against Cheapsells under the principles set out in *Rylands v Fletcher*.

[50]

Section C

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

- 7 Mr Black owns The Manor Hotel. Carrie is the hotel manager. The hotel is in need of significant renovations so Carrie decides to have part of the property rewired by Dave, a fully qualified electrician. Carrie puts up a sign in the hotel reception which reads:

'Please take care when moving around the hotel as the property is in the process of being renovated.'

Unfortunately, Dave fails to install a new switch properly in one of the bedrooms which results in Edith, a guest, being electrocuted.

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: Under the Occupier's Liability Act 1957, Mr Black is liable as an occupier of premises.

Statement B: Assuming that Carrie had **not** put up a sign, she would be liable for any injury suffered by a guest as a result of Dave's work under the Occupier's Liability Act 1957.

Statement C: Under the Occupier's Liability Act 1957, Carrie is **not** obliged to check Dave's work.

Statement D: Under the Occupier's Liability Act 1957, Edith **cannot** claim for her injury if she has seen the sign. **[20]**

- 8 Katastrophie Construction Ltd is building a new housing estate on the outskirts of a country village. The builders are on site from 6.00 am to 10.00 pm, seven days a week. Joan and Ian own houses in the village.

Joan complains about the noise and dust caused by the construction vehicles entering and exiting the building site. She is particularly upset as this is affecting her view and enjoyment of the countryside.

Ian is so fed up with the increase in traffic that he parks his car awkwardly near the entrance of the building site to prevent the lorries getting through.

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: Joan will be able to bring a claim in private nuisance for the interference with her view.

Statement B: The noise and dust from the building site can amount to a private nuisance.

Statement C: Ian can still bring a claim in private nuisance even though he has parked his car awkwardly near the entrance of the building site.

Statement D: If Katastrophie Construction Ltd has planning permission to build the housing estate, then this can be relied upon as a defence. **[20]**

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