

Wednesday 23 January 2013 – Afternoon

A2 GCE LAW

G157/01/1 Law of Torts

INSERT – QUESTION BOOKLET

Duration: 2 hours



INSTRUCTIONS TO CANDIDATES

- Write your name, centre number and candidate number in the boxes on the Answer Booklet. Please write clearly and in capital letters.
- Use black ink. 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 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.

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 your written communication (QWC) 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

- Do not send this Insert for marking; it should be retained in the centre or recycled. Please contact OCR Copyright should you wish to re-use this document.

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 tort of *Rylands v Fletcher* is so complex for all the parties concerned that it has become ineffective.'

Discuss the extent to which this statement is accurate.

[50]

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

- 2* 'The **Occupiers' Liability Act 1957** was a great improvement on existing laws and the 1984 Act continued this good work, but attention is still needed to ensure the law is fit for its purpose.'

Discuss the extent to which this statement is accurate.

[50]

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

- 3* Discuss the extent to which the defences of consent **and** contributory negligence are fair **and** effective.

[50]

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

SECTION B

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

- 4* Carole owns a chicken farm. A year ago she obtained planning permission to build a large shed to expand her business. Carole's next-door neighbour, Richard, is an artist who sells work from a studio at his home. He complains forcefully to Carole that his business is suffering as the noise of her chickens means visitors do not stay long enough to buy any art. In response Carole takes delivery of even more chickens.

Lorries collect eggs from Carole's chickens day and night. Richard claims that the lorries keep him awake and that the rural atmosphere is ruined. The cars and lorries produce fumes which Richard says have made his prize-winning flowers die.

Advise whether Richard may have any claims in nuisance against Carole and what his remedies might be. [50]

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

- 5* Ashia is waiting to cross the road. Boris is speeding and drives past so close to her that she is startled and falls over. Ashia hits her head, causing a small cut. A passer-by calls an ambulance and Ashia is taken to hospital. The hospital is so busy and short-staffed that she waits for two hours to have her head X-rayed. An hour later Dr Crane reads the X-ray and then tells Ashia that she can go home. Dr Crane rushes off to deal with another emergency.

The next day Ashia returns to hospital with a bad headache and blurred vision. A second X-ray reveals a skull fracture resulting in a blood clot pressing on her brain. Ashia has an emergency operation but dies without regaining consciousness. Medical evidence suggests that the initial injury was so serious that Ashia was almost certain to die even if Dr Crane had spotted it on the first X-ray.

Discuss the potential liability for negligence of Boris **and** Dr Crane for Ashia's death. [50]

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

- 6* Clive runs a pony trekking centre. At the centre he has a guard dog which he keeps chained up. Nina and Peter take their daughter, Marsha, aged 6, to the trekking centre for a birthday treat. Clive gives Marsha a bag of food for the ponies. There are fifty ponies in a field and in the next field there is a lone camel. A small sign on the camel's fence says – "Careful, I bite!" Whilst Marsha's parents are paying for the trek she wanders off to feed the camel, which bites her, and Marsha screams loudly. The ponies are so scared that they break out of their field through a broken gate which Clive has not fixed. They knock Nina over and break her arm. Peter goes to stroke the guard dog, which attacks him, and Peter needs stitches and plastic surgery.

Discuss Clive's liability under the **Animals Act 1971**. [50]

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

SECTION C

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

- 7 Stefan is on his way to a football match. He is wearing a team shirt. Tomos, a rival fan, is with his friends and Tomos shakes his fist at Stefan. Stefan runs away. Stefan joins a group of fellow fans and then shouts, "After the game you're a dead man!" Tomos and his friends run over and grab hold of Stefan. Stefan struggles and breaks free by kicking Tomos's leg. Tomos falls to the ground.

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]

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

Statement A: Tomos is liable for an assault when he shakes his fist at Stefan.

Statement B: Stefan is **not** liable for an assault when he shouts at Tomos.

Statement C: Tomos and his friends are liable for the false imprisonment of Stefan.

Statement D: Stefan is liable for a battery on Tomos.

- 8 Pablo is employed as a minibus driver for sports fixtures at Workalot School. He is told that he must only drive school pupils. Pablo is driving the school hockey team and the pupil sat next to Pablo, Florence, is shouting very loudly. Pablo asks Florence to be quiet but she shouts again and Pablo slaps Florence to make her stop. Pablo brakes hard to avoid a cat and a pupil suffers whiplash.

On the way back from the hockey match Pablo picks up his friend, Dennis. Pablo crashes into a parked car and Dennis' arm is injured. The next day Pablo drives to a concert in the minibus and is caught speeding.

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]

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

Statement A: Workalot School will be vicariously liable when Pablo slaps Florence.

Statement B: Workalot School will be vicariously liable for the whiplash as it employs Pablo.

Statement C: Workalot School will **not** be vicariously liable for Dennis' injured arm.

Statement D: Workalot School will be vicariously liable when Pablo is caught speeding.

Copyright Information

OCR is committed to seeking permission to reproduce all third-party content that it uses in its assessment materials. OCR has attempted to identify and contact all copyright holders whose work is used in this paper. To avoid the issue of disclosure of answer-related information to candidates, all copyright acknowledgements are reproduced in the OCR Copyright Acknowledgements Booklet. This is produced for each series of examinations and is freely available to download from our public website (www.ocr.org.uk) after the live examination series.

If OCR has unwittingly failed to correctly acknowledge or clear any third-party content in this assessment material, OCR will be happy to correct its mistake at the earliest possible opportunity.

For queries or further information please contact the Copyright Team, First Floor, 9 Hills Road, Cambridge CB2 1GE.

OCR is part of the Cambridge Assessment Group; Cambridge Assessment is the brand name of University of Cambridge Local Examinations Syndicate (UCLES), which is itself a department of the University of Cambridge.