

Tuesday 31 January 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 strict liability torts provided for under the **Animals Act 1971** have proven effective.'
Discuss the extent to which this statement is accurate. **[50]**
- 2*** Discuss the extent to which the development of the law on psychiatric damage (nervous shock) has led to the harsh treatment of secondary victims. **[50]**
- 3*** Discuss the extent to which the judges' approach to policy considerations is fair to **both** claimant **and** defendant when deciding whether or not a duty of care exists. **[50]**

SECTION B

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

- 4* Alvor is waiting for a train. His work colleague, Belinda, keeps poking him in the leg with her umbrella. Alvor is extremely cross and annoyed but Belinda thinks that it is amusing.

Alvor swings round to knock the umbrella out of Belinda's hand but misses and hits the wall instead. However, Belinda is so busy watching for the train that she does not even notice this. Darren is standing behind Belinda. Disgusted at Alvor's behaviour, Darren shouts, "I'd hit you myself if the train wasn't here".

That evening Alvor goes to a cinema to see a film. In the middle of the film he wants to go to buy some sweets. A cinema employee refuses to allow him to leave through the back exit until the end of the film. Alvor heads for the side exit but then the film gets thrilling so he sits back down. Had he gone to the side exit, Alvor would have found that the door was locked.

Discuss potential claims that Alvor **and** Belinda may make in the tort of trespass to the person and any relevant defences. [50]

- 5* Giles is the tenant of The Lazy Trout Hotel, owned by Smalltown Brewery. He has imposed restrictions on delivery times. He puts a sign outside the front of the hotel which states:

'Deliveries will only be accepted between 9.00 am and 3.00 pm Monday to Friday.'

Jakob, a delivery driver, arrives at 7.00 pm. Ignoring the sign, he starts to make his delivery to the hotel cellar. The cellar ladder is broken and as Jakob climbs down it he falls onto the floor. He breaks his ankle and smashes his mobile phone.

In the hotel bar, Myleen slips on a wet floor which has not been cleaned properly. She injures her back. Similar incidents have happened in the past but with less serious consequences.

Giles asks Sparkie, a local electrician, to check the electrical wiring in the hotel. Ignoring a warning from Giles to turn off the power supply, Sparkie is electrocuted and has to be taken to hospital.

Advise whether or not Jakob, Myleen **and** Sparkie can bring any actions under the **Occupiers' Liability Acts** and against whom. [50]

- 6* Victor parks his lorry at the top of a hill. He fails to apply the handbrake correctly and it rolls down the hill, collides with the car Mina is driving and then smashes into a shop.

Mina is taken to Stokesshire Hospital where she is left unattended for many hours. The nurse x-rays Mina's head but fails to examine her hip. When her hip is finally x-rayed one week later, a fracture is identified. Mina develops a weakness in her hip. Medical evidence shows that even though this sort of weakness would occur in 80% of such injuries, it was made virtually certain by the delay.

Colin and Doreen are passers-by. When the lorry smashes into the shop, Colin dives to save Doreen and pushes her out of the way of the splintering glass.

Colin has suffered from a disease of the spine for the past ten years. Following this accident he is now unable to work because of the pain. Doreen suffers cuts to her face and hands from the splintering glass.

Discuss any claims in negligence which Mina may bring against Stokesshire Hospital **and** any claims in negligence which Doreen and Colin may bring against Victor.

Assume that the duty of care requirements have been met. [50]

SECTION C

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

- 7 Farmer Rock stages a series of charity pop concerts in his field throughout the summer. The concerts last through the night. The fans camp out in the field. The music can be heard all over the village.

Campfire smoke drifts across the road, causing Barry, a village resident, to crash his car. He injures himself and damages his car. Caroline, whose house is next door to the field, breeds rare gerbils to sell. These creatures are extremely sensitive to noise and because of the concert noise will not breed. Farmer Rock knows that Caroline breeds gerbils but not that they are so sensitive.

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:** The smoke and noise from the summer concerts will amount to a private nuisance.
- Statement B:** Barry will **not** be able to bring a private action in public nuisance for his personal injury and damage to his car.
- Statement C:** Caroline can **not** bring a claim in private nuisance for her loss of income.
- Statement D:** If Farmer Rock donates all of the concert profits to the local village community project, he will have a defence. [20]

- 8 Jerry and Kumar work as delivery drivers for Kwikdrop Ltd. Jerry has been employed for three years. Kumar has been taken on as casual labour. Against Kwikdrop Ltd's policy, Jerry and Kumar decide to have a race to see who can make the most deliveries. Kumar reverses into a parked car, denting its door. Before finishing his deliveries, Jerry receives an urgent call to pick up his daughter from school. On the way to school, Jerry negligently crashes the van into William's car, injuring him. William is driving without his seat belt.

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:** Kumar is **not** an employee of Kwikdrop Ltd as he has only been taken on as casual labour.
- Statement B:** If Kumar is an employee, Kwikdrop Ltd will **not** be liable for the damage to the parked car.
- Statement C:** Kwikdrop Ltd will be liable for William's injuries in vicarious liability.
- Statement D:** William's damages could be reduced by 100%. [20]

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