

OCR

Oxford Cambridge and RSA

Tuesday 21 June 2016 – Morning

A2 GCE LAW

G157/01 Law of Torts

Candidates answer on the Answer Booklet.

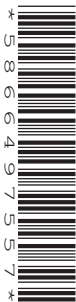
OCR supplied materials:

- 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** 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*** 'Interests in land are more effectively protected by trespass to land than private nuisance.'

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

- 2*** Discuss how effectively the Occupiers' Liability Acts 1957 and 1984 protect children **and** professional visitors. **[50]**

- 3*** Discuss the arguments for and against reform of the law on nervous shock (psychiatric damage). **[50]**

SECTION B

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

- 4* Sunnyside Harbour is popular with locals who sail and take part in other water-based activities. For safety reasons, the local council has placed signs in the harbour stating that the maximum speed limit is 10mph. One day, Frank is using the harbour to sail his small boat. David has just bought a new jetski and is so excited that he decides to make it go as fast as he can. He is doing about 45mph when he collides with Frank's boat. As Frank is not attached to the boat he is thrown overboard. He hits his head on the side of the boat as he falls into the harbour.

Frank is rushed to hospital where he is seen by Dr Smith. Dr Smith decides not to treat Frank's head injury with conventional medicine and tries a new experimental drug instead. The drug has not been approved for use on humans and Frank has a bad reaction which leaves him with permanent blindness.

Advise Frank of any potential claims he may make in negligence against David **and** Dr Smith. [50]

- 5* Rakesh has a large sum of money and decides to use the money to buy a business and a house. He wants to buy New Rooms R Us, a business that converts garages into living spaces. He asks his friend Oscar, who has just started work as a business consultant, to advise on whether this is a good investment for him. Oscar tells Rakesh that the business is financially sound and a good prospect for the future. Rakesh bought the business but he has now found that Oscar didn't inspect the accounts properly and the business owes so much money that it cannot survive.

Rakesh needs a mortgage from More Money Bank to buy a house. The bank instructs Peter, a local qualified surveyor, to survey the house. He reports that the structure of the house is sound. Rakesh is given a mortgage and moves in. A month later, the house collapses down a mineshaft.

Advise Rakesh of any claims he may make using the tort of negligent misstatement and against whom. [50]

- 6* Katherine and Lisa, aged 18, visit their cousin Charlotte, aged 10, who lives with her father Marcus. Charlotte and Marcus have a variety of pets including a cat, an Australian poisonous spider and a dog. Charlotte's cat has recently given birth to kittens and Katherine goes to see them. Marcus tells her to stay away from the kittens because the mother cat is very protective of the kittens. When Katherine strokes one of the kittens the mother cat scratches her badly.

Lisa is speaking to Charlotte in the kitchen where Marcus keeps his spider in a glass tank. Neither Charlotte nor Lisa are aware that the spider has escaped from the tank until it bites Lisa's foot which becomes very swollen.

When Lisa screams in pain Marcus's dog becomes agitated and rushes into the kitchen and knocks her over. She suffers injury to her head. Marcus is surprised by the dog's reaction as it has never behaved in this way before.

Advise Katherine and Lisa of any claims they may make using the Animals Act 1971 and against whom. [50]

SECTION C

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

- 7 Gareth regularly purchases and stores a significant quantity of fireworks in his garden shed. One night, Harry and Jamie sneak into Gareth's shed, which has been left unlocked, and Jamie throws a lighted match into a box of fireworks. The box explodes setting fire to the shed and causing serious burns to Harry. Thick smoke drifts onto the nearby main road causing a car crash. A firework shoots out of the shed and sets fire to Issy's house next-door.

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:** Harry will succeed in a claim under Rylands v Fletcher for his burns.
- Statement B:** Gareth will **not** be liable for the damage caused in the car crash under Rylands v Fletcher.
- Statement C:** In a claim under Rylands v Fletcher, Gareth will succeed in a defence of act of a stranger.
- Statement D:** Issy will **not** have a successful claim under Rylands v Fletcher because Gareth believed the fireworks were safely stored with little chance of any escape. [20]

- 8 Susan works from home, making and selling hair treatments. Kool Kolours provides Susan with all the ingredients for the treatments. She is able to choose her own working hours and is paid on commission. Kool Kolours deducts tax and National Insurance from Susan's earnings. One of her customers, Theresa, bought a bottle of hair dye from Susan. In fact, the bottle contained hair removal cream as Susan had mislabelled the bottle. Theresa uses the contents of the bottle and her hair falls out.

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:** Kool Kolours is vicariously liable to Theresa for the harm done by Susan's negligence as she is an employee.
- Statement B:** Kool Kolours is **not** vicariously liable to Theresa for the harm done by Susan's negligence because she was not acting 'in the course of employment'.
- Statement C:** Kool Kolours would be liable for the criminal harm done by Susan to Theresa as it was committed whilst she was acting 'in the course of employment'.
- Statement D:** Kool Kolours' insurance company could claim from Susan any damages payable to Theresa. [20]

END OF QUESTION PAPER

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