AS LEVEL

Exemplar Candidate Work

LAW

H015
For first teaching in 2017

H015/02 Summer 2018 examination series
Version 1

www.ocr.org.uk/law
# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>INTRODUCTION</td>
<td>3</td>
</tr>
<tr>
<td>QUESTION 1</td>
<td>4</td>
</tr>
<tr>
<td>Exemplar 1 8 marks</td>
<td>4</td>
</tr>
<tr>
<td>Exemplar 2 4 marks</td>
<td>5</td>
</tr>
<tr>
<td>QUESTION 2</td>
<td>7</td>
</tr>
<tr>
<td>Exemplar 1 10 marks</td>
<td>7</td>
</tr>
<tr>
<td>Exemplar 2 5 marks</td>
<td>8</td>
</tr>
<tr>
<td>QUESTION 3</td>
<td>9</td>
</tr>
<tr>
<td>Exemplar 1 9 marks</td>
<td>9</td>
</tr>
<tr>
<td>Exemplar 2 6 marks</td>
<td>11</td>
</tr>
<tr>
<td>QUESTION 4</td>
<td>13</td>
</tr>
<tr>
<td>Exemplar 1 10 marks</td>
<td>13</td>
</tr>
<tr>
<td>Exemplar 2 6 marks</td>
<td>14</td>
</tr>
<tr>
<td>QUESTION 5</td>
<td>17</td>
</tr>
<tr>
<td>Exemplar 1 10 marks</td>
<td>17</td>
</tr>
<tr>
<td>Exemplar 2 5 marks</td>
<td>18</td>
</tr>
<tr>
<td>QUESTION 6</td>
<td>20</td>
</tr>
<tr>
<td>Exemplar 1 9 marks</td>
<td>20</td>
</tr>
<tr>
<td>Exemplar 2 6 marks</td>
<td>21</td>
</tr>
<tr>
<td>QUESTION 7</td>
<td>23</td>
</tr>
<tr>
<td>Exemplar 1 8 marks</td>
<td>23</td>
</tr>
<tr>
<td>Exemplar 2 5 marks</td>
<td>23</td>
</tr>
<tr>
<td>QUESTION 8</td>
<td>26</td>
</tr>
<tr>
<td>Exemplar 1 10 marks</td>
<td>26</td>
</tr>
<tr>
<td>Exemplar 2 4 marks</td>
<td>27</td>
</tr>
</tbody>
</table>
Introduction

These exemplar answers have been chosen from the summer 2018 examination series.

OCR is open to a wide variety of approaches and all answers are considered on their merits. These exemplars, therefore, should not be seen as the only way to answer questions but do illustrate how the mark scheme has been applied.

Please always refer to the specification https://www.ocr.org.uk/Images/315216-specification-accredited-a-level-gce-law-h415.pdf for full details of the assessment for this qualification. These exemplar answers should also be read in conjunction with the sample assessment materials and the June 2018 Examiners’ report or Report to Centres available from Interchange https://interchange.ocr.org.uk/Home.mvc/Index

The question paper, mark scheme and any resource booklet(s) will be available on the OCR website from summer 2019. Until then, they are available on OCR Interchange (school exams officers will have a login for this and are able to set up teachers with specific logins – see the following link for further information http://www.ocr.org.uk/administration/support-and-tools/interchange/managing-user-accounts/).

It is important to note that approaches to question setting and marking will remain consistent. At the same time OCR reviews all its qualifications annually and may make small adjustments to improve the performance of its assessments. We will let you know of any substantive changes.
Question 1

1 Explain overruling and reversing.

Exemplar 1

8 marks

Overruling is when a judge in a higher court can change a decision made by a lower court. This is done when the judge believes the lower court ruling is incorrect. If the court believes the previous law to be wrong, they are able to depart from the decision. For example, the Supreme Court can overturn a decision made by the Court of Appeal. This also means that past ratio decidendi will not be relevant or applied. An example of judge overruling is decision in

See Horn v Anderson.
Examiner commentary

This candidate starts by explaining how precedent works generally, whereas the focus of the question is explicitly on overruling and reversing. The response does then go into clear definitions of overruling and reversing, supported by case examples and the Practice Statement. Overall, this response was placed at the top of Level 3, as there was good citation of relevant examples. The response would have benefitted from using time spent on stare decisis to improve their explanations/citation of how the examples used demonstrated overruling and/or reversing.

Exemplar 2

Overruling and reversing are types of precedent which allow courts higher in the hierarchy to change the outcome of cases made in higher courts. Overruling is when a higher court changes the outcome of a case from a lower court because it was wrong or unjust. It was done in "Smith", the case where the defendant thought he was buying a stolen item but it wasn't. The court that decided...
Examiner commentary

This candidate begins with an incorrect explanation of overruling and reversing, referring to changing outcomes of higher courts. The candidate does then correctly define reversing but the case example given is not properly explained to illustrate reversing. Overruling is then also defined correctly, with an example of the Practice Statement (although this is not really explained). The candidate then gives R v Brown and R v Wilson as examples but again these are not particularly appropriate for overruling and the cases are simply named without giving any detail. This response was placed in Level 2 as there is some basic understanding of overruling and reversing; to reach the higher mark levels there needed to be more relevant examples as well as clear and more detailed explanations.
Question 2

Examiner commentary

This response achieved full marks. After a brief definition of statutory interpretation, which is not required by the question, the mischief rule is correctly and clearly defined, with reference to the use of extrinsic aids/Hansard and the four questions from
Heydon's case (although the case was not explicitly referred to). The response correctly cited three case examples of the mischief rule which did refer to the mischief/purpose in each case and its outcome. In the time given this was an excellent response to the demands of the question.

Exemplar 2

5 marks

Examiner commentary

This candidate begins by outlining the definition of the mischief rule, with some of the questions which are used to apply it. The example of Smith v Hughes is given, with an explanation of the mischief in the case but this could be further developed. This response was placed at the top of Level 2 – to reach Level 3 or higher there needed to be greater detail. This is a case-law driven area and, while relevant, the citation could have been clearer by reference to the use of the mischief rule questions or by using further cases as illustrations.
3 Explain the stages of the legislative process that take place in the House of Lords.

Exemplar 1

9 marks

Firstly, in the House of Lords a Green paper will be issued by a peer who has responsibility for that matter. It is a consultative document, which includes government views and ideas for reform.

The first stage is the legislative process.

Is the first reading. This is when a bill will be formally introduced to the House of Lords. In this stage, the debate takes place, and the name and primary aims of the bill are read out. This is significant as it allows a formal first introduction of the bill, enabling peers to start making consideration.

The next stage is the second reading. This is when the main debate takes place, where peers would debate the main principles of the bill. At the end of a vote, a bill needs to be taken, which ultimately decides whether or not the bill would progress any further. There needs to be a majority in favour of the bill for it to progress to the committee stage.

The next stage is the committee stage. This is the chamber where a detailed examination of each clause of the bill.
The bill would then be passed to the House of Commons. Their job is to consider the proposed bill and time to accept or reject it.

The bill would then go through the same steps as outlined above. The House of Commons would then send the bill back to the Lords if they make any amendments. The Lords would then can be sent back to the Lords to a process known as parliamentary ping pong, or if all the proposed changes have been agreed on.

The final step is the passage of the bill.
Examiner commentary

This response begins with the pre-legislative process and ends with the Royal Assent, neither of which was required by this particular question. There is also reference to the Standing Committee and expertise, features associated with the House of Commons rather than the House of Lords. That said, much of the answer does refer to the House of Lords and shows excellent description of all the stages in the right order. To achieve full marks, more detail in the third reading would have consistently met the criteria for excellent knowledge and understanding; if the candidate had focused on only the legislative process itself there would have been time to focus on this aspect.

Exemplar 2

6 marks
Examiner commentary

This response includes detail of the pre-legislative process which was not credited as the question explicitly referred to the legislative stages of the House of Lords. The stages are briefly explained and are mostly accurate, although the candidate does refer to voting in the first reading and 16-50 sitting in the Committee Stage which are inaccurate details. The response ends by writing about stages following the House of Lords, which is not creditworthy as it is not focused on the question set. This response was placed in Level 3 as it was quite detailed, and there was a good description of all stages. To reach Level 4 there needed to be an excellent description of all stages.
Question 4

Discuss the disadvantages of parliamentary law making.

Exemplar 1

One disadvantage of parliamentary law making is the fact that it is so long. There are many stages to the process which take a lot of time. There are first reading, second reading, committee stage, reports stage, third reading, a tell-run and royal assent. This means that when parliament consider a bill influenced by public opinion it will take a long time to have an effect. However, the length does mean that it is thoroughly scrutinised so loopholes are closed. In an emergency, orders in council can be created too as an alternative.

Another disadvantage is that the Royal Assent part of the process is an old-fashioned tradition which takes up time. The monarch hasn’t refused a bill since the 1700’s so it is extremely rare for it to happen. Despite it wasting time and adding on to an already lengthy procedure. However, it is a good process because there is the expertise of Lords. Reading the Act will be accurate and professional. Another disadvantage is the House of Commons (HC) can approve acts even if the House of Lords (Lords) haven’t agreed if the other House stage is taking too long. This is unfair and could lead to loopholes in the law. This is because the House contains many professionals and experts whose opinions are valid. This means if they don’t approve a bill, but it is a good reason so it is unfair for HC to continue it in any way. However, it does get passed.
<table>
<thead>
<tr>
<th>Examiners Commentary</th>
<th>Exemplar 2</th>
<th>6 marks</th>
</tr>
</thead>
<tbody>
<tr>
<td>This response gained full marks. There are a number of fully developed arguments and it begins with the disadvantages, as directed by the question. The counter-arguments are well linked, with good use of examples (including comparing parliamentary law-making with delegated legislation). There is reference to a wide range of concepts within parliamentary law-making with a well-sustained focus on the question throughout.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
paper means that government will be able to take into account any proposed changes before the bill is presented to parliament. Furthermore, it helps limiting and consultation over when the bill is passed to one for from both chambers. This allows for the bill to be monitored closely and carefully, thus improving its quality of legislation.

I view a clear advantage of the House of Lords in the process of making new laws. The fact that it is a perfectly new process. For example, the bill has to pass All through many stages, where intense debate occurs and further more, it is clear that the bill needs to be passed to the House. The House of Lords also have the power to delay a bill - something that the House of Commons do not. This means that my present important social change from occurring quickly enough, which means that society will not modernise in a quick efficient way.

Another disadvantage is that sometimes the wording in an Act of Parliament may be ambiguous or obscure. This is a problem as it means that the law would be difficult to understand for the general public and even worse for judges, who may apply the law incorrectly due to confusion caused. In return, for example a significant number of cases go to the Supreme Court due to the interpretation of an Act's program.
Examiner commentary

This response begins with a lengthy evaluation of the advantages of parliamentary law-making and this part is not focused on the question set. The latter part of the response does focus on disadvantages with some good arguments (especially regarding the need for statutory interpretation); as a consequence of this relevant material this response was placed at the bottom of Level 3. This response could be improved by focusing more on the disadvantages, as required by the question, and using the advantages as counter-arguments to fully discuss those points.
5 Explain the types of compensatory damages available in tort.

Exemplar 1

One type of compensatory damage available is compensation for pecuniary loss. This consists of compensation given for things that can be calculated up until the start of trial or specific date, whichever is later. The claimant has recovered. This could consist of the cost of hiring a car to get around places. It can also include the loss of wages from being unable to work for a certain period of time. These types of losses are usually paid out using special damages.

Another type of compensatory damage available is compensation for non pecuniary loss. This can include a loss of amenity or happiness. We change our injury. This can also include being unable to do certain things that you would usually do like playing sport.

This type of loss would usually be paid out using general damages.

The court would usually award me as a lump sum. This is when the payment would be in the compensation will be awarded altogether as one whole payment. The claimant is unable to come back to court for more compensation. If they have exhausted their claim damages. This is clearly unjust as the claimant's condition may get worse.
Examiner commentary

This response gained full marks. The types of losses are accurately explained alongside the corresponding types of damages, and there is development using examples of losses that can be claimed for. Lump sums are also explained, accompanied by a lengthy discussion of whether these are fair or unfair to claimants; as this question focuses on AO1 (Knowledge and Understanding) the evaluative material is not creditworthy. This candidate refers to the Damages Act and structured settlements, making it fully developed and detailed. It is an excellent response for the time given in terms of the content; however, a more careful reading of the question would have allowed the candidate to omit the evaluative material and this would have given a little extra time to be used elsewhere on the paper.

Exemplar 2

5 marks
Examiner commentary

While quite short, this response does show a basic knowledge and understanding of compensatory damages. The difference between pecuniary and non-pecuniary losses is explained, with an example for each although, as above, the evaluative comments are not creditworthy in this AO1 question. The response lacks detail and is only partially developed, as there is no link to types of damages, which means it is placed at the top of Level 2. To reach the higher mark bands the response needed greater range and detail on the types of payment.
Question 6

Advise whether or not Carol will be able to make a successful claim under the Occupiers’ Liability Act 1957.

Exemplar 1

Under the Occupiers Liability Act 1957, Carol may be able to make a successful claim against Julie.

Julie is the owner of the premises "Coffee Bean Cafe," a premises must include a minimum structure or veranda.

Under the Occupiers Liability Act 1957, it is vitally important for the premises to be in a safe and safe condition. The premises remains safe, Julie has ensured they have been maintained in a safe condition for the period for which she published the premises for use by the public.

As permission has been granted for her to enter the cafe.

It is clear from the scenario that Carol had not acted as a reasonable competent person claiming her job. This is because the instruction assembled the chairs without having read the pre-instructions. This shows how the task was not carried out as a reasonable person would have done. Therefore, the reasonable person would have taken care whilst assembling the chairs and read instructions. This shows how Julie has also breached her duty of care as she had left below her chair and grate. The concept of the reasonable person was established by New v Birmingham Water Works Co.
Examiner commentary

This candidate outlines the duty of care owed under OLA 1957, although the duty is to keep visitors safe rather than the premises themselves. The status of Carol as a lawful visitor and the premises as being owned by Julie have been accurately determined, and the candidate has applied relevant law to demonstrate why the occupier has breached their duty of care in this scenario and the appropriate damages. Although this response was placed in Level 5 because it was detailed and accurate, it could have been improved with more specific, precise application of OLA principles rather than general negligence. For example, this candidate refers to the reasonable man test and the case of Blyth v Birmingham Waterworks from negligence to determine the standard and breach of duty, whereas OLA looks instead to the common duty of care (this is found in s2(2)). Note that the marks are awarded for application of relevant law to the scenario facts.

Exemplar 2

6 marks

Carol may be able to make a successful claim under the Occupiers Liability Act 1957. Under this Act, an occupier is someone with some degree of control over a premises. A premises is defined as any fixed or moveable structure including a vehicle, aircraft or vessel. This includes buildings, houses, offices, lifts and ladders. An occupier owes a duty of care to any lawful visitors. Lawful visitors include invitees, licensees, anyone with a contractual agreement or anyone with statutory right to be there e.g. police with a warrant. The occupier must ensure that the premises are reasonably safe, not completely safe as shown in the case of Lutteroth v Rigopoulos takeaway.
Examiner commentary

This response begins by describing the rules under the OLA 1957, which is AO1 material, whereas this question focuses on AO2 application skills. As a result, there is less time to apply relevant knowledge to the given scenario and is only seen in the candidate's second paragraph. The duty of care owed by Julie to Carol is correctly stated with use of accurate legal terminology and the issues in the scenario are correctly argued, but too briefly. This response is placed at the bottom of Level 3 as it contains good application of legal rules beyond a basic coverage but it is not fully developed and justified in terms of application of the relevant law to the scenario facts. To reach higher into Level 3 and to access Level 4 this candidate would have been better off using their time to focus solely on the issues in the scenario and to then apply their knowledge in the light of those issues. For example, the mark scheme makes reference to explaining why Julie has not discharged her duty of care by more explicitly comparing her actions to the standard of the reasonable occupier, and the fact that personal injury is a loss that is recoverable under the OLA 1957.
Question 7

Advise whether or not Sam will be able to make a successful claim under the Occupiers’ Liability Act 1984.

Exemplar 1

8 marks

Examiner commentary

This response correctly concludes that Sam is allowed to claim despite being a trespasser, and this is supported with good reasoning and appropriate legal terminology. The candidate has correctly identified that Sam can only claim for personal injury and explained why he is a trespasser. While the candidate makes reference to the common duty of humanity, they go further and discuss some of the points from OLA 1984, such as the foreseeability of the harm and the obviousness of the hazard. This response was placed in Level 3 and could have been improved by specifically applying the section 1(3) criteria in turn, and explicitly dealing with the issue of premises and why Julie is the defendant occupier as well as considering the effect of the warning sign on the door as a precaution taken by Julie.

Exemplar 2

5 marks
In this scenario, Mr. Norrie is the occupier of the premises — the premises can be entered at fixed sites or moving structures or vehicles. It was firstly regarded as

as lawful visitor as he had clear permission first to enter the cafe which is open to the public. However, Sam became a trespasser/non-lawful visitor when he entered through a clear marked “Staff only”.

The occupier must take reasonable precautions to ensure that visitors are kept out of the premises — such as by placing a sign at the entrance to the premises. Mr. Norrie had clearly done this by placing a “Staff only” sign outside the clear, which is a sufficient sign to show that non-visitors (people who aren’t staff) are not able to be in his premises.

Furthermore, Sam is an adult man and thus the sign was clear and sufficient for him to understand that he was forbidden to enter. Therefore, under the Occupiers Liability Act 1984, he would have been able to claim damages for his

This is because under the Occupiers Liability Act 1984, compensation is not available for damage to personal property.
Examiner commentary

This candidate correctly identifies that ignoring the warning sign makes Sam a trespasser and would therefore limit his damages to personal injury, but they incorrectly conclude that he would be unable to claim for his injuries as the sign (Staff Only) would be an adequate warning as this sign does not warn of the danger within and so it would not be sufficient. The response also focuses on the claimant's wrongdoing, rather than the defendant's, and could have instead been framed in terms of contributory negligence having the effect of reducing Sam's compensation. As a result the candidate does not go on to consider Julie's liability for leaving the packaging behind the door at all. The response is placed in Level 2, as the level criteria for Level 3 requires a 'good application of the legal rules to the given scenario'; this requires accurate application of the law leading to the conclusion that Julie did not discharge her duty of care and Sam could in fact claim, despite the warning sign and being a trespasser.
Question 8

8* Discuss the extent to which the Occupiers’ Liability Act 1957 provides justice for claimants. [10]

Exemplar 1

10 marks

The Occupiers' Liability Act 1957 means that occupiers owe a duty to keep lawful visitors to make it reasonably safe. This provides justice for claimants because it means if they are injured due to carelessness not being safe they will get compensation. However, it only has to be reasonably safe, which means the visitor may be injured and not get compensation. This occurred in Laveren v Klapoja Takeaway Supreme. Another reason the justice is when they are visitors they can claim for property damage whereas trespassers in OLI 1984 don't get to claim for property damage. This makes it more just for the claimant. Another way to it is the assumption of the allurement of children has been considered. This was shown in Glasgow Corporation Taylor and Bolton v Sutton. This makes it much fairer for claimants. However, the occupier can blame the parent such as in Phipps v Rochester Corporation. Also the duty of care doesn't last long. This was shown in the case where a woman injures her foot in a hole from a maypole that was taken down 2 years ago. Due to the time she didn't get compensation which is unfair. Also it is unfair because the occupier can blame a contractor for the visitor's injury. This occurred in the case where a lift fell killing a visitor. As it was a specialist activity with a specialist.
Examiner commentary

This response was credited full marks for analysis and evaluation. The candidate remains focused on the specific theme of the question (providing justice for claimants) and uses case examples to substantiate and develop their arguments. The candidate also contrasts the OLA 1957 with the OLA 1984. There is a wide range of clear points made with reference to both children and contractors and a valid conclusion based on their discussions, as is required to meet AO3 1a.

Exemplar 2

4 marks

Examiner commentary

Although this candidate illustrates their last point with a case example the others made are quite basic; an example being that the reference to subjectivity in relation to children is repeated without further development. Ways to improve this would be to provide a supporting case example as evidence, or by discussing the impact this rule has on claimants in order to maintain focus on the question. The response makes a good point about warning signs, but the impact upon the claimant is not explained clearly. This candidate would benefit from logically analysing whether their points provide justice for claimants or not, as the information
is presented as statements of the law rather than as a discussion. The response is placed in Level 2 as it does try to address the question, but most of the key points are not developed enough to warrant Level 3, although it does have a basic structure no conclusion is reached and there is insufficient supporting evidence.
We'd like to know your view on the resources we produce. By clicking on the 'Like' or 'Dislike' button you can help us to ensure that our resources work for you. When the email template pops up please add additional comments if you wish and then just click 'Send'. Thank you.

Whether you already offer OCR qualifications, are new to OCR, or are considering switching from your current provider/awarding organisation, you can request more information by completing the Expression of Interest form which can be found here:
www.ocr.org.uk/expression-of-interest

OCR Resources: the small print
OCR’s resources are provided to support the delivery of OCR qualifications, but in no way constitute an endorsed teaching method that is required by OCR. Whilst every effort is made to ensure the accuracy of the content, OCR cannot be held responsible for any errors or omissions within these resources. We update our resources on a regular basis, so please check the OCR website to ensure you have the most up to date version.

This resource may be freely copied and distributed, as long as the OCR logo and this small print remain intact and OCR is acknowledged as the originator of this work.

Our documents are updated over time. Whilst every effort is made to check all documents, there may be contradictions between published support and the specification, therefore please use the information on the latest specification at all times. Where changes are made to specifications these will be indicated within the document, there will be a new version number indicated, and a summary of the changes. If you do notice a discrepancy between the specification and a resource please contact us at: resources.feedback@ocr.org.uk.

OCR acknowledges the use of the following content: Square down and Square up: alexwhite/Shutterstock.com

Please get in touch if you want to discuss the accessibility of resources we offer to support delivery of our qualifications: resources.feedback@ocr.org.uk.

Looking for a resource?
There is now a quick and easy search tool to help find free resources for your qualification:
www.ocr.org.uk/i-want-to/find-resources/

www.ocr.org.uk
OCR Customer Support Centre
General qualifications
Telephone 01223 539988
Facsimile 01223 552627
Email general.qualifications@ocr.org.uk

OCR is part of Cambridge Assessment, a department of the University of Cambridge. For staff training purposes and as part of our quality assurance programme your call may be recorded or monitored.

© OCR 2019 Oxford Cambridge and RSA Examinations is a Company Limited by Guarantee. Registered in England. Registered office The Triangle Building, Shaftesbury Road, Cambridge, CB2 8EA. Registered company number 3484466. OCR is an exempt charity.