



Oxford Cambridge and RSA

Tuesday 13 October 2020 – Afternoon

A Level Law

H415/02 Law making and the law of tort

Time allowed: 2 hours



You must have:

- the OCR 12-page Answer Booklet

INSTRUCTIONS

- Use black ink.
- Write your answer to each question in the Answer Booklet. The question numbers must be clearly shown.
- Fill in the boxes on the front of the Answer Booklet.
- Answer **five** questions in total:
Answer **one** question from Questions 1 and 2 and **one** question from Questions 3 and 4 in Section A.
Choose **one** Part in Section B. Answer the **three** questions for that part.

INFORMATION

- The total mark for this paper is **100**.
- The marks for each question are shown in brackets [].
- Quality of extended response will be assessed in questions marked with an asterisk (*).
- This document has **4** pages.

ADVICE

- Read each question carefully before you start your answer.

SECTION A

Law making

Answer **two** questions (**one** from questions **1–2** and **one** from questions **3–4**).

Answer **one** question from questions **1–2**.

1 Describe **three** influences on parliamentary law-making. [10]

2 Describe the *ratio decidendi* and the *obiter dicta* of a judgment. [10]

Answer **one** question from questions **3–4**.

3 Discuss the advantages and disadvantages of influences on parliamentary law-making. [15]

4 Discuss the disadvantages of binding precedent. [15]

SECTION B**Law of tort**

Choose **Part 1** or **Part 2**.

Part 1

Answer the **three** questions below.

The first two questions are based on the scenarios below. The scenarios are not related.

In 1972, Anytown Football Club appointed Viktor as a sports physiotherapist. Between 1972 and 1990, Viktor provided physical check-ups for all newly appointed football players. Viktor was self-employed and invoiced the football club for each examination he conducted. A number of former players are now seeking damages from Anytown Football Club, as they had been sexually abused by Viktor while he was conducting their physical examinations. Viktor died in 2016, so the former players cannot bring a claim against him personally.

Dr Penberthy is on duty in the accident and emergency department of Sunnyside Hospital when Treeve is rushed in following a surfing accident. Treeve is not responding to brain activity tests and conventional treatment is not working. Dr Penberthy decides to try an old-fashioned method of treatment which involves using an unusual drug. The procedure is against hospital policy and the vast majority of doctors would not use it. Unfortunately, Treeve dies immediately after being given the drug. An autopsy (an investigation into the cause of death) shows that Treeve's death was due to his existing injury and not due to the drug used by Dr Penberthy.

- 5 Advise whether Anytown Football Club would be vicariously liable for the sexual abuse committed by Viktor. [25]
- 6 Advise whether Dr Penberthy would be liable in negligence for the death of Treeve. [25]

Essay question on the law of tort

- 7* Discuss the extent to which the law on what constitutes private nuisance effectively balances competing interests. Do **not** discuss defences or remedies. [25]

Part 2

Answer the **three** questions below.

The first two questions are based on the scenarios below. The scenarios are not related.

Shaun, a nine-year-old boy, enters the Oldtown Pet Shop to find out about buying a goldfish. He sees a colourful parrot and reaches up and puts his finger in the cage. The parrot bites him, leaving him with a nasty injury. There is a sign above the cage saying, 'This Parrot May Bite'.

Bob runs a charity from his garage. He salvages and recycles old bicycles to send to Africa. Outside the garage, he has created a storage area where he has put a large pile of worn-out bicycle tyres. Bob keeps the tyres under a cover to protect them from the weather. During a freak thunderstorm, a passing drunken man pulls the cover off and later a bolt of lightning strikes the pile of tyres, setting them on fire. The fire spreads and burns down the garage belonging to Charlie, Bob's neighbour.

- 8 Advise whether Oldtown Pet Shop will be liable for the injuries sustained by Shaun in occupier's liability. [25]
- 9 Advise whether Charlie would be successful in an action in Rylands against Bob. [25]

Essay question on the law of tort

- 10* Discuss the extent to which the law on what constitutes private nuisance effectively balances competing interests. Do **not** discuss defences or remedies. [25]

END OF QUESTION PAPER

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