

Candidate forename						Candidate surname					
Centre number						Candidate number					

OXFORD CAMBRIDGE AND RSA EXAMINATIONS
A2 GCE
G157/01
LAW
Law of Torts

FRIDAY 15 JUNE 2012: Afternoon
DURATION: 2 hours
plus your additional time allowance
MODIFIED ENLARGED

Candidates answer on the Question Paper.

OCR SUPPLIED MATERIALS:

Insert – G157/01/I (inserted)

OTHER MATERIALS REQUIRED:

None

READ INSTRUCTIONS OVERLEAF

INSTRUCTIONS TO CANDIDATES

- **The Insert will be found in the centre of this document.**
- **Write your name, centre number and candidate number in the boxes on the first page. 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.**
- **Answer THREE questions, ONE from Section A, ONE from Section B and ONE from Section C.**
- **Write your answer to each question in the space provided. Additional paper may be used if necessary but you must clearly show your candidate number, centre number and question number(s).**
- **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 (*).

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 law on liability for negligent misstatement has developed to become so complicated and unpredictable that it is unfair to victims.’**

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

- 2* Discuss how fair the rules on causation AND remoteness of damage are to BOTH parties. [50]**

- 3* ‘The main aims of the law of torts are to compensate the victim and deter wrongdoing.’**

Discuss the extent to which the tort of trespass to the person achieves BOTH of these aims. [50]

Start writing your answer to the Section A question you have chosen to answer below. Start writing your answer to the Section B question you have chosen to answer on page 21. Start writing your answer to the Section C question you have chosen to answer on page 36.

Write the number of the question in the margin.

SECTION B

Answer only ONE question from this section.

4* Kate has tickets for GlastFest 2012. Halfway through the show, the organisers allow six coach loads of fans into the arena. Kate and other fans are pushed into the stage. The stage collapses and the stage lights fall onto the band. The lead singer, Harry Heartthrob, is crushed by the lighting. He is screaming and lying in a pool of blood. Minnie, the guitarist helps him. She and Harry have been playing in the band for ten years and used to be married.

Minnie is so badly traumatised that she develops depression and is unable to play in the band again. Kate just missed being hit by the lighting rig and cannot get over the traumatic night. She suffers a personality change as a result.

Lorna adores Harry Heartthrob. She saw Harry being injured whilst watching the concert live on TV. She now cannot leave the house as she is overcome with grief.

Advise whether Minnie, Kate and Lorna would be successful in a claim for psychiatric damage (nervous shock) against the GlastFest organisers.

Do NOT discuss vicarious liability.

[50]

5* Lisa rents a detached house from her brother Tom. Next door to the house is a shop owned by Mr Xi. One of Mr Xi's customers has reversed his car into the shop fence and knocked it down. Mr Xi has concreted over the fence post holes and has not yet replaced the fence panel which is still lying on Lisa's garden.

Lisa claims that a board advertising the shop, which overhangs the boundary, is ugly and needs to be removed. There are also two fruit trees at the rear of the shop which have branches overhanging Lisa's garden. Mr Xi frequently goes into Lisa's garden and uses his ladder to pick fruit off his trees. He usually leaves his ladder on Lisa's garden, damaging her vegetable patch. Lisa has told Mr Xi not to do this and, one day, she takes his ladder in protest.

Advise whether Lisa may have any claims against Mr Xi in the tort of trespass to land. [50]

6* Cheapsells supermarket has a recycling centre on its land. This includes a can recycling unit and a cooking oil disposal tank which members of the public and the supermarket café use. Harriet owns the neighbouring farm.

During a terrible storm, the top of the can unit breaks loose. Harriet is struck by a can which has blown out of the unit as she tries to protect her prize-winning pumpkins. She suffers a cut face and the top of the can unit smashes the door of her greenhouse.

The heavy rainfall fills the oil disposal tank to the top. Oil then leaks into Harriet's garden, contaminating the soil and destroying the pumpkin crop.

It costs Harriet £5,000 to clean up the contaminated soil and she loses an estimated £1,000 profit which she would have made on the crop.

Advise whether Harriet will be able to bring any successful claims against Cheapsells under the principles set out in Rylands v Fletcher.

[50]

Start writing your answer to the Section B question you have chosen to answer below. Start writing your answer to the Section C question you have chosen to answer on page 36.

Write the number of the question in the margin.

[illegible]

SECTION C

Answer only ONE question from this section.

- 7 Mr Black owns The Manor Hotel. Carrie is the hotel manager. The hotel is in need of significant renovations so Carrie decides to have part of the property rewired by Dave, a fully qualified electrician. Carrie puts up a sign in the hotel reception which reads:**

‘Please take care when moving around the hotel as the property is in the process of being renovated.’

Unfortunately, Dave fails to install a new switch properly in one of the bedrooms which results in Edith, a guest, being electrocuted.

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: Under the Occupier’s Liability Act 1957, Mr Black is liable as an occupier of premises.

STATEMENT B: Assuming that Carrie had NOT put up a sign, she would be liable for any injury suffered by a guest as a result of Dave’s work under the Occupier’s Liability Act 1957.

STATEMENT C: Under the Occupier’s Liability Act 1957, Carrie is NOT obliged to check Dave’s work.

STATEMENT D: Under the Occupier’s Liability Act 1957, Edith CANNOT claim for her injury if she has seen the sign. [20]

- 8 Katastrophie Construction Ltd is building a new housing estate on the outskirts of a country village. The builders are on site from 6.00 am to 10.00 pm, seven days a week. Joan and Ian own houses in the village.**

Joan complains about the noise and dust caused by the construction vehicles entering and exiting the building site. She is particularly upset as this is affecting her view and enjoyment of the countryside.

Ian is so fed up with the increase in traffic that he parks his car awkwardly near the entrance of the building site to prevent the lorries getting through.

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: Joan will be able to bring a claim in private nuisance for the interference with her view.

STATEMENT B: The noise and dust from the building site can amount to a private nuisance.

STATEMENT C: Ian can still bring a claim in private nuisance even though he has parked his car awkwardly near the entrance of the building site.

STATEMENT D: If Katastrophie Construction Ltd has planning permission to build the housing estate, then this can be relied upon as a defence. [20]

Write the number of the question in the margin.

[illegible]

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.