



General Certificate of Education
Advanced Subsidiary Examination
June 2011

Law

LAW02

Unit 2 The Concept of Liability

Wednesday 25 May 2011 1.30 pm to 3.00 pm

For this paper you must have:

- an AQA 12-page answer book.

Time allowed

- 1 hour 30 minutes

Instructions

- Use black ink or black ball-point pen.
- Write the information required on the front of your answer book. The **Examining Body** for this paper is AQA. The **Paper Reference** is LAW02.
- Answer questions on **two** scenarios.
- Answer **all** questions on Scenario 1 (**Section A**), and choose **either** Scenario 2 (**Section B**) or Scenario 3 (**Section C**) and answer **all** questions on the scenario you choose.
- Do all rough work in your answer book. Cross through any work you do not want to be marked.
- Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Information

- The marks for questions are shown in brackets.
- The maximum mark for this paper is 94.
- In questions

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 and

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, **two** marks will be awarded for Assessment Objective Three (AO3), and so you will be marked on your ability to:
 - use good English
 - organise information clearly
 - use specialist vocabulary where appropriate.

Section A Introduction to Criminal Liability

Answer **all** questions on Scenario 1.

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this scenario: 45 marks + 2 marks for AO3

Scenario 1

Zoe and Yasmin were both members of the same athletics club and competed in the same event. Zoe was furious that Yasmin was a better athlete than her. Zoe decided to injure Yasmin so that she would not be able to compete in the next club championship. As they returned from a training run, Zoe tripped Yasmin who fell down the steps leading to the changing room. Yasmin suffered minor bruising. However, as she fell, she knocked over Xin who fell awkwardly, fracturing his skull. Subsequent poor medical treatment left Xin with brain damage.

Actus reus may depend on proof of an act, causation and a criminal consequence. *Mens rea* is also required for criminal liability, but there is an exception where the offence is one of strict liability.

- 0 | 1** Explain the meaning of '*mens rea*'. (7 marks)
- 0 | 2** Briefly explain the meaning of, **and** reasons for, strict liability. (7 marks)

Refer to Scenario 1 when answering the remaining questions in this section.

- 0 | 3** Discuss the criminal liability of Zoe with respect to the injuries caused to Yasmin. (7 marks + 2 marks for AO3)
- 0 | 4** Explain the principle of transferred malice **and** discuss how this principle would apply to Zoe for the injuries suffered by Xin. (7 marks)
- 0 | 5** Outline the rules on causation **and** discuss whether Zoe caused Xin's brain damage. (7 marks)
- 0 | 6** Outline the procedure that would be followed if Zoe were charged with an indictable only offence. (5 marks)
- 0 | 7** Outline the range of sentences available to the court if Zoe were to be convicted. (5 marks)

Choose **either** Scenario 2 (**Section B**) or Scenario 3 (**Section C**) and answer **all** questions on the scenario you choose.

Section B Introduction to Tort

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this scenario: 45 marks + 2 marks for AO3

Scenario 2

Robyn fitted a handrail over the bath for Elsie, her elderly and very overweight aunt. A few days later, when Elsie was getting out of the bath, the handrail came away from the wall. Elsie fell backwards into the bath and suffered severe head injuries. If this matter were to be taken to court, it is estimated that a successful claim in negligence would result in damages exceeding £100 000, excluding the minor damage to the bathroom.

Negligence requires proof of duty of care, breach of duty and damage.

- 0 | 8** Explain how the law decides whether a duty of care is owed in negligence. (7 marks)
- 0 | 9** Breach of duty requires the claimant to prove that the defendant has fallen below the standard of care of the reasonable man. That standard is assessed by taking into account one or more of the risk factors.
- Briefly explain **three** risk factors. (7 marks)
- 1 | 0** Briefly explain the principle of *res ipsa loquitur* and how it applies in negligence cases. (5 marks)

Refer to Scenario 2 when answering the remaining questions in this section.

- 1 | 1** Discuss whether Robyn owed a duty of care to Elsie. (7 marks + 2 marks for AO3)
- 1 | 2** Assuming that Robyn owed a duty of care to Elsie, discuss whether she was in **breach** of that duty. (7 marks)
- 1 | 3** Outline the three-track case management system used in the civil courts **and** briefly explain which track is most likely to be used in any claim that Elsie could make against Robyn. (5 marks)
- 1 | 4** Assuming that Robyn were found liable in negligence, explain how the court would calculate an award of damages to Elsie. (7 marks)

Turn over for the next section

Turn over ►

Choose **either** Scenario 2 (**Section B**) or Scenario 3 (**Section C**) and answer **all** questions on the scenario you choose.

Section C Introduction to Contract

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this scenario: 45 marks + 2 marks for AO3

Scenario 3

Ian, a club owner, e-mailed Jay, a singer, to arrange for him to perform at his club. Jay replied by e-mail, indicating that his fee would be £500. Ian thought that this was too much. He e-mailed back asking whether the fee would be lower if Jay used the club sound system. Jay replied, saying his fee would be slightly less. Ian did nothing for two weeks until Jay released a CD which became an immediate hit. Realising the performance would now sell out, Ian immediately e-mailed Jay, stating that he would pay £500 and suggesting a range of dates for the performance. Jay replied, saying that his fee was now £2000.

A valid contract requires an offer, acceptance, an intention to create legal relations and consideration.

- 1 | 5** Explain the differences between an offer and an invitation to treat. *(7 marks)*
- 1 | 6** Briefly explain any **three** ways in which an offer may come to an end. *(7 marks)*
- 1 | 7** Outline the law relating to the different ways of communicating acceptance. *(5 marks)*

Refer to Scenario 3 when answering the remaining questions in this section.

- 1 | 8** Discuss whether there is a contract between Ian and Jay. *(7 marks + 2 marks for AO3)*
- 1 | 9** Explain what is meant by consideration **and** how it would apply if the court decided that there was a contract between Ian and Jay. *(7 marks)*
- 2 | 0** Outline the three-track case management system used in the civil courts **and** briefly explain which track is most likely to be used in any claim that Ian could make against Jay. *(5 marks)*
- 2 | 1** If Jay were to be in breach of contract, explain how the court would calculate an award of damages to Ian. *(7 marks)*

END OF QUESTIONS