

General Certificate of Education
January 2005
Advanced Subsidiary Examination



LAW
Unit 3 The Concept of Liability

LAW3

Thursday 13 January 2005 Afternoon Session

In addition to this paper you will require:
an 8-page answer book.

Time allowed: 1 hour

Instructions

- Use blue or black ink or 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 LAW3.
- Answer **both** questions.
- Do all rough work in the answer book. Cross through any work you do not want marked.
- Use continuous prose. Give reasoned answers. Where appropriate, make reference to authority.

Information

- The maximum mark for this paper is 65.
- Mark allocations are shown in brackets.
- You will be awarded up to 5 marks for the quality of your written communication. You will be assessed on your ability to use an appropriate form and style of writing, to organise relevant information clearly and coherently, and to use specialist vocabulary, where appropriate. The degree of legibility of your handwriting and the level of accuracy of your spelling, punctuation and grammar will also be taken into account.

Answer **both** questions.

Use continuous prose. Give reasoned answers. Where appropriate, make reference to authority.

Read the scenario and answer **all** parts of the questions which follow.

Criminal Law

1

Total for this question: 25 marks

Anna was walking alongside Tara, when she tripped Tara up with her foot. Tara fell over and grazed her knee. She ignored the graze until three days later, when her knee became swollen by an infection. She went to her doctor, who prescribed her a drug to deal with the infection. Tara's doctor did not check her medical records. Tara is in fact allergic to this drug and has become paralysed as a result of her reaction to taking the drug.

- (a) Criminal offences generally require proof of both ***actus reus*** and ***mens rea***.
 - (i) Briefly explain the meaning of these two terms. **(5 marks)**
 - (ii) Anna might be prosecuted for an offence. Explain what is meant by **causation** and discuss whether Anna's actions were the factual and legal cause of Tara's paralysis. **(10 marks)**
- (b) Taking into account your answer to 1(a), discuss Anna's criminal liability in this incident involving Tara. **(10 marks)**

Tort

2

Total for this question: 35 marks

Seema was an amateur mountain-bike racer who was preparing for the Student Championships in Austria. She bought some expensive new wheels from Spokes Ltd that had been made to their new design. Whilst she was training abroad, a design fault in her new front wheel caused the tyre to burst and she crashed, breaking several bones. She can no longer ride competitively, and has also had to pay £6000 overseas medical bills, as she was not insured.

- (a) Two elements of the tort of negligence are **duty of care** and **breach of duty of care**. Briefly explain the meaning of these two terms, and explain why Spokes Ltd owes Seema a duty of care, and discuss whether it has breached its duty of care. **(15 marks)**
- (b) Explain the rules of law relating to **remoteness of damage** and consider whether Seema's losses are too remote a consequence for Spokes Ltd to be liable to Seema. **(10 marks)**
- (c) Assuming Spokes Ltd were to be found liable to Seema in negligence, explain how the court would calculate the **damages** to be awarded to her. **(10 marks)**

END OF QUESTIONS