



General Certificate of Education
Advanced Subsidiary Examination
January 2011

Law

LAW02

Unit 2 The Concept of Liability

Wednesday 19 January 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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0	8
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 and

1	5
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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: 47 marks

Scenario 1

Alan believed that Bhu, a fellow student, had stolen his mobile phone. Alan saw Bhu at college, went up to her and said, "We sort out thieves like you." As Bhu hurried away in a panic, Alan's friend, Carol, sprayed Bhu with red paint. A small amount of paint went into Bhu's eyes. She was taken to hospital where her eyes were treated to remove the paint. As she went home, and just before her sight was fully recovered, she tripped up a kerb and fractured her skull.

Actus reus usually depends on proof of a voluntary act or an omission. *Mens rea* is also required for criminal liability, but there is an exception where the offence is one of strict liability.

- 0 | 1** Explain how there can be criminal liability for an omission. (7 marks)
- 0 | 2** What is strict liability? Outline the reasons for having offences of strict liability. (7 marks)
- Refer to the scenario when answering the remaining questions in this section.
- 0 | 3** Discuss Alan's criminal liability for his statement to Bhu, "We sort out thieves like you." (7 marks)
- 0 | 4** Discuss the criminal liability of Carol for the eye injury suffered by Bhu. (7 marks)
- 0 | 5** Outline the rules on causation, and briefly discuss whether Carol caused Bhu's fractured skull. (7 marks + 2 marks for AO3)
- 0 | 6** Outline the procedure that would be followed **before** Alan's trial if he were charged with a **summary** offence. (5 marks)
- 0 | 7** Outline the **aims** of sentencing available to the court, and briefly discuss how these aims might apply if Carol were 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: 47 marks

Scenario 2

Samantha was showing off to her friends in a café by carrying a tray of hot drinks balanced on one hand. She tumbled off her high heels and the drinks spilled over Tom, a businessman, who was burned. Whilst having treatment for his burns, he lost £1700 in earnings. Some of the liquid went into Tom's laptop computer which was on his table. Tom had to spend £500 having the computer repaired, but some of the files on the computer were permanently lost.

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

- 0 8** Explain the meaning of the term 'duty of care'. *(7 marks + 2 marks for AO3)*
- 0 9** Breach of duty requires the claimant to prove that the defendant has fallen below the standard of the reasonable man. That standard is assessed by taking into account one or more of the risk factors. Outline the meaning of the term 'reasonable man' **and** explain **one** of the risk factors. *(7 marks)*
- 1 0** Damage involves the rules of causation, including remoteness of damage. Explain the meaning of the term 'remoteness of damage'. *(7 marks)*
- Refer to the scenario when answering the remaining questions in this section.
- 1 1** Assuming that Samantha owed a duty of care to Tom, discuss whether she was in **breach** of that duty. *(7 marks)*
- 1 2** Assuming that Samantha was in breach of her duty of care to Tom, discuss whether the loss of Tom's files was **too remote**. *(5 marks)*
- 1 3** Outline the three-track system used in the civil courts and briefly explain which track is most likely to be used in any claim that Tom makes against Samantha. *(5 marks)*
- 1 4** Assuming Samantha was found liable in negligence, explain how the court would calculate an award of damages to Tom. *(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: 47 marks

Scenario 3

Rob owns a courier business which uses small vans. He won a contract with Spenser to carry out home deliveries for Spenser's products. Rob had to paint three vans with Spenser's name and logo. Rob agreed with Terry, a specialist paint sprayer, to pay £1000 per van for this work. Terry agreed to complete the work by 1 December, when Rob was due to start deliveries. On 28 November, Terry had finished painting two vans, but had not started the third. Terry stated that he could not finish the work on time. Rob took the third van to his cousin, Uma, who did the work on time, at very short notice, but at a cost of £2500.

A valid contract requires an offer and acceptance, an intention to create legal relations and consideration. If one party to the contract does not do what has been agreed, this is likely to amount to a breach of contract.

1 | 5 Explain the difference between an offer and an invitation to treat. (7 marks + 2 marks for AO3)

1 | 6 Briefly explain the law on acceptance by conduct **and** acceptance using the post. (7 marks)

1 | 7 Explain the meaning of 'consideration' **and** of 'past consideration'. (7 marks)

Refer to the scenario when answering the remaining questions in this section.

1 | 8 Outline the meaning of 'intention to create legal relations'. Briefly discuss whether there was an intention to create legal relations between Rob and Terry **and** between Rob and Uma. (7 marks)

1 | 9 Outline the difference between actual breach and anticipatory breach of contract. Briefly discuss the type of breach that may have occurred between Rob and Terry. (7 marks)

2 | 0 Identify which track Rob's claim against Terry would be allocated to and which court would hear the case. Briefly discuss why it might be better to settle the dispute by negotiation rather than by going to court. (5 marks)

2 | 1 Assuming Terry was found liable, outline how the court would calculate an award of damages in contract. Briefly explain how much Rob might be awarded as damages. (5 marks)

END OF QUESTIONS