



General Certificate of Education
Advanced Subsidiary Examination
June 2012

Law

LAW02

Unit 2 The Concept of Liability

Wednesday 30 May 2012 9.00 am to 10.30 am

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 **03**, **09** and **15**, **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

Ahmed was sitting in his house when a brick, thrown by Bryan, crashed through his window. Ahmed feared that he was about to be attacked by Bryan's gang which was noted for racist attacks. In a panic, Ahmed rushed out of his house and jumped into his van. He raced to the police station and reversed wildly into a parking space. He failed to notice that he had trapped Carl behind the van. When he realised what he had done, he decided to leave Carl trapped, as he thought that Carl was one of Bryan's gang. As a result, Carl suffered permanent damage to his spine. If he had been released immediately, the injuries would have been far less severe.

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 causation in criminal law. (7 marks)

0 | 2 Explain the meaning of the term '*mens rea*' in criminal law. (7 marks)

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

0 | 3 Ignoring liability for any property offences, discuss the criminal liability of Bryan for the incident with the brick. (8 marks + 2 marks for AO3)

0 | 4 Outline the principle of coincidence of *actus reus* and *mens rea* (the contemporaneity rule). Briefly discuss the criminal liability of Ahmed for the serious injury to Carl's spine. (10 marks)

0 | 5 Outline the procedure, up to the start of the trial, that would be followed if Bryan were charged with a summary offence. (5 marks)

0 | 6 Assuming that Bryan has been convicted of an offence and is due for sentencing, outline the following:

- the **factors** that the court would take into account when considering the sentence
- the **range** of sentences available to the court. (8 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

Eve was a trainee hairdresser. After work, she met her friend, Fran, who works as a model. Eve explained that she had started to learn to colour hair that week. She showed Fran a range of products that she was learning to use.

Fran asked Eve to colour her hair. They went to Fran's house. Eve did not read the instructions on the products, failed to follow recommended tests and mixed the products incorrectly. Fran's skin became blistered and clumps of hair fell out. Fran has been advised that, if she succeeded in a claim against Eve, she could be awarded around £20 000 in damages. This could include damages for loss of earnings now and in the future.

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

- 0 | 7** Explain how the law decides whether a duty of care has been breached, including how any **two** risk factors may affect the court's decision. *(8 marks)*
- 0 | 8** Damage in negligence involves the rules of factual causation **and** the rules of remoteness of damage. Explain these rules. *(8 marks)*

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

- 0 | 9** Outline the principles of duty of care and briefly discuss whether Eve owed a duty of care to Fran. *(8 marks + 2 marks for AO3)*
- 1 | 0** Assuming that she did owe a duty of care to Fran, discuss whether Eve was in breach of that duty. *(8 marks)*
- 1 | 1** Outline the three-track case management system used in the civil courts **and** identify which track and which court are most likely to be used in a claim that Fran could make against Eve. *(5 marks)*
- 1 | 2** Assuming that Eve were to be found liable in negligence, explain how the court would calculate an award of damages to Fran. *(8 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

Greta wanted to make an appointment with her dentist, Hari. Greta telephoned on 1 May and asked Hari to leave a number of possible times on her voicemail. Hari replied by leaving a message on Greta's voicemail later that day.

When Greta listened to her voicemail on 2 May, she decided that the suggestion of 4.00 pm on Monday was perfect. She texted back immediately, stating that 4.00 pm on 12 May was fine. Unfortunately, Greta had not listened to all of Hari's voicemail that finished with, "All times are for the week beginning 5 May." Greta then lost her phone, so did not pick up Hari's text sent on 3 May, stating that 12 May was no good.

Ian, another patient of Hari, failed to arrive for his pre-booked appointment because he overslept.

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

1 | 3 Explain the rules which apply to the ways in which an offer can be accepted. (8 marks)

1 | 4 Explain the meaning of the term 'consideration', including an explanation of past consideration. (8 marks)

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

1 | 5 Briefly discuss the legal effect of each stage in the negotiations between Greta and Hari **and** decide whether those negotiations resulted in a contract. (10 marks + 2 marks for AO3)

1 | 6 Briefly explain what is meant by breach of contract.

Assuming that there was a contract between Ian and Hari, briefly discuss whether Ian was in breach of that contract when he failed to arrive for his pre-booked appointment. (8 marks)

1 | 7 Outline the three-track case management system used in the civil courts **and** identify which track and which court are most likely to be used in any claim that Hari could make against Ian. (5 marks)

1 | 8 Explain how the court would decide the amount of damages to be awarded to Hari if Ian were found to be in breach of contract for missing his appointment. (6 marks)

END OF QUESTIONS