

AS LAW

Unit 2 The Concept of Liability

Friday 20 May 2016

Afternoon

Time allowed: 1 hour 30 minutes

Materials

For this paper you must have:

- an AQA 12-page answer book.

Instructions

- Use black ink or black ball-point pen.
- Write the information required on the front of your answer book. 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

Aki ran towards Binh shouting abuse and threatening to beat him up. This frightened Binh. He roughly pushed Aki away. Aki fell over and banged his head. An hour later, Aki suffered a bad headache. His doctor briefly examined him and told him to come back later if he felt no better.

Two months later, Aki collapsed and was taken to hospital. The hospital doctors found that Aki had brain damage as a result of the fall. Medical opinion was that Aki would not have had brain damage if doctors had treated him earlier.

Binh had never before been in trouble with the police. He was horrified by what had happened to Aki.

Actus reus requires proof of an act or omission, 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 how an omission can be the basis of the actus reus of a crime. **[8 marks]**

0 2 Explain the meaning of the coincidence (contemporaneity) rule. **[7 marks]**

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

0 3

Discuss the criminal liability of Aki for the offence of assault on Binh.

[8 marks + 2 marks for AO3]

0 4

Aki suffered brain damage for which Binh may be charged with inflicting grievous bodily harm under s20 of the Offences Against the Person Act 1861.

Discuss Binh's liability for this offence.

[10 marks]

0 5

If Aki is charged with assault (a summary offence), outline the following:

- the pre-trial procedure which would be followed **and**
- the burden of proof **and** standard of proof required at this trial.

[7 marks]

0 6

If Binh is convicted of inflicting grievous bodily harm:

- outline **two** aims of sentencing **and**
- briefly discuss how **each** of your chosen aims might apply.

[5 marks]

Turn over for the next section

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

Chris is the owner of a fast food stall. Dan bought some food from Chris' stall. Dan became seriously ill soon after he ate the food. He spent two weeks in hospital. It was discovered that the food from the stall was contaminated.

Doctors found that Dan was very likely to suffer more than most people from food poisoning. Dan eventually recovered from his illness, but found that he had lost £20 000 earnings from his work. He also lost out on an expected promotion at work as he failed to attend an interview when he was in hospital.

Dan had given some of his food to Euan, a homeless person, who also became ill for a short time.

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

0 7

Breach of duty of care involves the failure to reach the standard of care of the reasonable man, taking into account various risk factors.

Briefly explain how the law sets the standard of the reasonable man for the breach of duty of care, **and** briefly explain any **one** risk factor that may affect the standard.

[8 marks]

0 8

Damage in negligence involves the rules of factual causation **and** the rules of remoteness of damage.

Briefly explain the rules relating to remoteness of damage.

[8 marks]

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

0 9

Discuss how the rules on causation and remoteness would apply to Dan's lost earnings **and** his losses arising from being unable to attend an interview for promotion.

[8 marks + 2 marks for AO3]

1 0

Outline the **Caparo** three-part test used to decide whether a duty of care is owed **and** briefly discuss whether or not Chris owed a duty of care to Euan.

[8 marks]

1 1

Dan decides to sue Chris for negligence. Outline the procedure which would be followed before a trial takes place.

[5 marks]

1 2

Briefly explain **both** of the following:

- the rules relating to burden and standard of proof in a civil case
- the rules relating to res ipsa loquitur.

and

Briefly explain how these rules may apply in Dan's claim against Chris.

[8 marks]

Turn over for the next section

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

Fay wanted to buy some straw bales for her horses. She sent a text message to Gareth and to Harry saying, "How much for 200 straw bales?"

Gareth replied "£400", and Harry replied, "I can offer you 200 bales for £700, delivered."

Fay immediately sent a text message to Gareth which said, "Excellent - please deliver next week". Gareth replied by text, "Delivery is £50 - OK?" Fay replied, "OK". Gareth delivered the bales, but there were only 100 of them.

Two months later, Fay sent a text to Harry saying, "Please deliver 200 bales of straw for £700 next week". Harry immediately replied, "There are no bales left."

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

1 | 3

Briefly explain how an offer can come to an end by counter-offer, by rejection and by revocation of the offer.

[8 marks]

1 | 4

Explain the meaning of 'intention to create legal relations'.

[8 marks]

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

1 5

In relation to contract law, discuss the stages in the negotiations **and** indicate whether a contract was formed between:

- Fay and Gareth
- Fay and Harry.

[8 marks + 2 marks for AO3]

1 6

Explain the difference between actual breach and anticipatory breach.

If both Gareth and Harry were in breach of their separate contracts with Fay, briefly explain whether their breaches would be actual or anticipatory.

[8 marks]

1 7

Assuming that Fay sues Gareth for breach of contract, outline the procedure which would be followed before a trial takes place.

[5 marks]

1 8

Outline the burden **and** standard of proof required for any claim in contract between Fay and Gareth.

Briefly explain:

- the three track system
- and**
- which court and which track is likely to be used to hear any claim between Fay and Gareth?

[8 marks]

END OF QUESTIONS

There are no questions printed on this page

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