

OXFORD CAMBRIDGE AND RSA EXAMINATIONS

Advanced GCE

LAW

2579

Law of Torts Special Study

Monday

30 JANUARY 2006

Morning

1 hour 30 minutes

Additional materials:
16-page Answer Booklet
Special Study Materials

TIME 1 hour 30 minutes

INSTRUCTIONS TO CANDIDATES

- Write your name, Centre number and candidate number in the spaces provided on the answer booklet.
- Answer **all** questions.
- Read each question carefully and make sure you know what you have to do before starting your answer.
- If you use additional sheets of paper, fasten these securely to the answer booklet.
- Write the numbers to the questions you answer on the front of your answer booklet.

INFORMATION FOR CANDIDATES

- The number of marks is given in brackets [] at the end of each question or part question.
- The total number of marks for this paper is **100**.
- **All questions should be answered in continuous prose. You are reminded, therefore, that you will be assessed on your ability to organise and present information and arguments logically and coherently, and to communicate clearly and accurately, taking into account grammar, punctuation and spelling.**

This question paper consists of 2 printed pages.

You are reminded of the importance of including relevant knowledge from all areas of your course, where appropriate, including the English Legal System.

Answer all questions.

- 1 In Source 1 [page 3 lines 44–47 Special Study Materials] the authors suggest that “The courts’ primary task on interpretation is to ascertain and give effect to the meaning of the words used ... ‘Construction’, on the other hand, is the process whereby uncertainties or ambiguities in a statute are resolved.”

Consider, in the light of the above, the extent to which use of the literal rule and the golden rule, are effective in resolving ambiguities and uncertainties in statutes. [30]

- 2 Discuss the extent to which the decision in *Fairchild v Glenhaven Funeral Services Ltd* [Source 5 page 5 lines 42–60 Special Study Materials] represents a development of the law on factual causation. [15]

- 3 In Source 10 [page 8 lines 16–18 Special Study Materials] the author suggests that “The rules for establishing contributory negligence on the part of the plaintiff (claimant) are not the same as the rules for establishing liability for negligence on the part of the defendant.”

Discuss how the courts apply the defence of contributory negligence in the light of the above statement. [25]

- 4 Consider how each of the following potential claims will be affected by issues of causation in fact:

- (a) Vio, a painter, suffered a broken pelvis while at work through the negligence of his employers. The injury left him with a permanent disability so that he could no longer climb ladders and had to take light work on much lower pay. Three years later Vio developed a genetic disorder, unconnected to the pelvic injury which has left him paralysed and unable to work at all. (10)
- (b) Derek, a painter, breaks his leg at work because of the negligence of his employer. He is unable to return to work for some time and gets no pay for sickness absence under his contract. While his leg is in plaster Derek climbs a ladder to clean out his guttering at home. He falls and then has to have his leg amputated. (10)
- (c) Barry, a painter, is injured in a crash when driving his employer’s van because the employer had failed to maintain the brakes. Barry is trapped in the van waiting for the emergency services to arrive. A motorist, Ralph, driving negligently and at very high speed, crashes into the van killing Barry instantly. (10)

[30]