

OXFORD CAMBRIDGE AND RSA EXAMINATIONS

Advanced GCE

LAW

2579

Law of Torts Special Study

Wednesday **21 JUNE 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 of 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 *Magor & St Mellons v Newport Corporation* Lord Simonds condemned the approach of Lord Denning of ‘filling in the gaps and making sense of the enactment’ as ‘a naked usurpation of the legislative function’.” [Source 1 page 3 lines 60–62 Special Study Materials].

Discuss the use of a purposive approach to statutory interpretation in the light of the above statement. [25]

- 2 Discuss the extent to which the decision in *The Oropesa* [Source 8 page 7 lines 1–5 Special Study Materials] can be said to be a fair development of the law. [15]

- 3 In Source 5 [page 4 lines 1–5 Special Study Materials] the author suggests that “*Causation is a question of fact which it is necessary for the claimant to prove ... This is sometimes extremely difficult, especially where it is possible for the defendant to argue that there are a number of other causative factors besides the one relied upon the claimant.*”

Discuss the difficulties in establishing causation in fact where there are **multiple causes** in the light of the above statement. [30]

- 4 Consider how each of the following potential claims may be affected by issues of causation in fact or contributory negligence:

(a) Sukhy needs to get to the station quickly to catch the last train. Chris offers Sukhy a lift in his two seater sports car, explaining to Sukhy that the passenger seat belt is broken. Chris drives negligently and causes a car crash. Sukhy is thrown through the windscreen and sustains much worse injuries than if he had been wearing a seat belt. (10)

(b) Tariq, a footballer, injures his pelvis during a game. Tariq is taken to hospital where Ali, the doctor, negligently fails to take X-rays, and sends Tariq away. Tariq returns to hospital a week later, still in great pain. An X-ray then reveals a complex fracture which has now led to a permanent disability. Expert opinion reveals that there would have been a 50% chance of Tariq recovering if the injury had been diagnosed at once. (10)

(c) Geraint drives a van for Fast Couriers. The van skids off the road when the brakes fail due to Fast Couriers’ negligent maintenance. Geraint is only bruised. Before he can get out of the van a freak, extreme gust of wind causes the van to topple into a river next to the road and Geraint is drowned. (10)

[30]

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