

**ADVANCED GCE UNIT**

**2579**

**LAW**

Law of Torts Special Study

**THURSDAY 21 JUNE 2007**

Morning

Time: 1 hour 30 minutes

Additional materials: 16-page Answer Booklet  
Special Study Materials



**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 document 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 64-66 Special Study Materials] the author suggests that “...it is a truism that hard cases make bad law and the courts have, from time to time, been prepared to assume the authority to supply omissions left by the legislature.”

Consider the accuracy of the above statement in relation to decided cases using the literal rule **and** using the golden rule. [30]

- 2 Discuss the significance of the decision in *Hotson v East Berkshire HA* [Source 5 page 5 lines 25-36 Special Study Materials] to the development of the law on causation. [15]

- 3 In Source 8 [page 7 lines 6-7 Special Study Materials] Lord Justice Stephenson suggests that “Negligent conduct is more likely to break the chain of causation than conduct which is not...”

Discuss the circumstances in which courts will accept a defence of *novus actus interveniens* in the light of the above statement. [25]

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

(a) Fran, an actress, reluctantly consents to an operation advised by a surgeon, Stephen, to stop a slight twitch in her right eyelid. Fran is reluctant to have an operation because she is afraid that it might go wrong. She would prefer a less drastic form of treatment that is available. Stephen fails to warn Fran that there is a slight chance, between 1% and 2%, that the operation could lead to blindness in the eye. The operation is not carried out negligently but Fran does in fact go blind in her right eye as a result. (10)

(b) Terry, a professional cricketer, suffers multiple fractures to his right leg when he is involved in a collision in his car caused by the negligent driving of Mark. As a result Terry has to give up his cricketering career for a lower paid job. Before Terry’s negligence claim against Mark is heard, Terry develops a crippling orthopaedic illness in both legs that causes him to give up work altogether. The illness is the result of injuries Terry sustained over the years while playing cricket. (10)

(c) Andy works in a hairdresser’s salon. His employer, Estelle, is bound by law to provide Andy with rubber gloves because of the chemicals in the dyes and bleaches and the potential that they have for causing skin diseases. The law also states that Estelle is bound to ensure that Andy wears the gloves at all times when using dyes and bleaches. Andy never wears the gloves because he finds that they make his hands sweat. Andy then contracts dermatitis and is suing Estelle. (10)

[30]

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