Candidate forename		Candidate surname	

Centre number						Candidate number				

OXFORD CAMBRIDGE AND RSA EXAMINATIONS

A2 GCE

G157/01

LAW

Law of Torts

TUESDAY 31 JANUARY 2012: Afternoon
DURATION: 2 hours

SUITABLE FOR VISUALLY IMPAIRED CANDIDATES

Candidates answer on the Question Paper.

OCR SUPPLIED MATERIALS:
Insert – G157/01/I (inserted)

OTHER MATERIALS REQUIRED:
None

READ INSTRUCTIONS OVERLEAF

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INSTRUCTIONS TO CANDIDATES

- **Write your name, centre number and candidate number in the boxes on the first page. Please write clearly and in capital letters.**
- **Use black ink. Pencil may be used for graphs and diagrams only.**
- **Read each question carefully. Make sure you know what you have to do before starting your answer.**
- **Write your answer to each question in the space provided. Additional paper may be used if necessary but you must clearly show your candidate number, centre number and question number(s).**
- **Answer THREE questions; ONE from Section A, ONE from Section B and ONE from Section C.**
- **When answering Section A and Section B questions you are required to demonstrate some synoptic thinking. In Section A this is achieved by relevant reference to precedent and/or statutory materials including the development of law and comments on justice or morality where appropriate. In Section B this is achieved by relevant use of precedent and/or statutory materials in the application of legal reasoning to given factual situations including comment on the justice or morality of the outcome where appropriate. You are not required to demonstrate synoptic thinking in Section C.**

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 120.**
- **Candidates are reminded of the need to write legibly and in continuous prose, where appropriate. In answering SECTION A and SECTION B questions you will be assessed on the quality of your written communication (QWC) including your use of appropriate legal terminology. These questions are marked with an asterisk (*).**

Answer THREE questions.

Answer ONE from Section A, ONE from Section B and ONE from Section C.

You are advised to spend 50 minutes on Section A, 50 minutes on Section B and 20 minutes on Section C.

SECTION A

Answer only ONE question from this section.

1* 'The strict liability torts provided for under the ANIMALS ACT 1971 have proven effective.'

Discuss the extent to which this statement is accurate. [50]

2* Discuss the extent to which the development of the law on psychiatric damage (nervous shock) has led to the harsh treatment of secondary victims. [50]

3* Discuss the extent to which the judges' approach to policy considerations is fair to BOTH claimant AND defendant when deciding whether or not a duty of care exists. [50]

Start writing your answer to the Section A question you have chosen below. Start writing your answer to the Section B question you have chosen on page 14. Start writing your answer to the Section C question you have chosen on page 26.

Write the number of the question in the margin.

SECTION B

Answer only ONE question from this section.

4* Alvor is waiting for a train. His work colleague, Belinda, keeps poking him in the leg with her umbrella. Alvor is extremely cross and annoyed but Belinda thinks that it is amusing.

Alvor swings round to knock the umbrella out of Belinda's hand but misses and hits the wall instead. However, Belinda is so busy watching for the train that she does not even notice this. Darren is standing behind Belinda. Disgusted at Alvor's behaviour, Darren shouts, "I'd hit you myself if the train wasn't here".

That evening Alvor goes to a cinema to see a film. In the middle of the film he wants to go to buy some sweets. A cinema employee refuses to allow him to leave through the back exit until the end of the film. Alvor heads for the side exit but then the film gets thrilling so he sits back down. Had he gone to the side exit, Alvor would have found that the door was locked.

Discuss potential claims that Alvor AND Belinda may make in the tort of trespass to the person and any relevant defences. [50]

5* Giles is the tenant of The Lazy Trout Hotel, owned by Smalltown Brewery. He has imposed restrictions on delivery times. He puts a sign outside the front of the hotel which states:

'Deliveries will only be accepted between 9.00 am and 3.00 pm Monday to Friday.'

Jakob, a delivery driver, arrives at 7.00 pm. Ignoring the sign, he starts to make his delivery to the hotel cellar. The cellar ladder is broken and as Jakob climbs down it he falls onto the floor. He breaks his ankle and smashes his mobile phone.

In the hotel bar, Myleen slips on a wet floor which has not been cleaned properly. She injures her back. Similar incidents have happened in the past but with less serious consequences.

Giles asks Sparkie, a local electrician, to check the electrical wiring in the hotel. Ignoring a warning from Giles to turn off the power supply, Sparkie is electrocuted and has to be taken to hospital.

Advise whether or not Jakob, Myleen AND Sparkie can bring any actions under the OCCUPIERS' LIABILITY ACTS and against whom. [50]

6* **Victor parks his lorry at the top of a hill. He fails to apply the handbrake correctly and it rolls down the hill, collides with the car Mina is driving and then smashes into a shop.**

Mina is taken to Stokeshire Hospital where she is left unattended for many hours. The nurse x-rays Mina's head but fails to examine her hip. When her hip is finally x-rayed one week later, a fracture is identified. Mina develops a weakness in her hip. Medical evidence shows that even though this sort of weakness would occur in 80% of such injuries, it was made virtually certain by the delay.

Colin and Doreen are passers-by. When the lorry smashes into the shop, Colin dives to save Doreen and pushes her out of the way of the splintering glass.

Colin has suffered from a disease of the spine for the past ten years. Following this accident he is now unable to work because of the pain. Doreen suffers cuts to her face and hands from the splintering glass.

Discuss any claims in negligence which Mina may bring against Stokeshire Hospital AND any claims in negligence which Doreen and Colin may bring against Victor.

Assume that the duty of care requirements have been met. [50]

Start writing your answer to the Section B question you have chosen below. Start writing your answer to the Section C question you have chosen on page 26.

Write the number of the question in the margin.

SECTION C

Answer only ONE question from this section.

7 **Farmer Rock stages a series of charity pop concerts in his field throughout the summer. The concerts last through the night. The fans camp out in the field. The music can be heard all over the village.**

Campfire smoke drifts across the road, causing Barry, a village resident, to crash his car. He injures himself and damages his car. Caroline, whose house is next door to the field, breeds rare gerbils to sell. These creatures are extremely sensitive to noise and because of the concert noise will not breed. Farmer Rock knows that Caroline breeds gerbils but not that they are so sensitive.

Evaluate the accuracy of EACH of the four statements A, B, C and D individually, as they apply to the facts in the above scenario.

STATEMENT A: **The smoke and noise from the summer concerts will amount to a private nuisance.**

STATEMENT B: **Barry will NOT be able to bring a private action in public nuisance for his personal injury and damage to his car.**

STATEMENT C: **Caroline can NOT bring a claim in private nuisance for her loss of income.**

STATEMENT D: **If Farmer Rock donates all of the concert profits to the local village community project, he will have a defence. [20]**

8 **Jerry and Kumar work as delivery drivers for Kwikdrop Ltd. Jerry has been employed for three years. Kumar has been taken on as casual labour. Against Kwikdrop Ltd's policy, Jerry and Kumar decide to have a race to see who can make the most deliveries. Kumar reverses into a parked car, denting its door. Before finishing his deliveries, Jerry receives an urgent call to pick up his daughter from school. On the way to school, Jerry negligently crashes the van into William's car, injuring him. William is driving without his seat belt.**

Evaluate the accuracy of EACH of the four statements A, B, C and D individually, as they apply to the facts in the above scenario.

STATEMENT A: **Kumar is NOT an employee of Kwikdrop Ltd as he has only been taken on as casual labour.**

STATEMENT B: **If Kumar is an employee, Kwikdrop Ltd will NOT be liable for the damage to the parked car.**

STATEMENT C: **Kwikdrop Ltd will be liable for William's injuries in vicarious liability.**

STATEMENT D: **William's damages could be reduced by 100%. [20]**

Start writing your answer to the Section C question you have chosen below.

Write the number of the question in the margin.

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