



General Certificate of Education
Advanced Subsidiary Examination
January 2009

Law

LAW02

Unit 2 The Concept of Liability

Friday 16 January 2009 1.30 pm to 3.00 pm

For this paper you must have:

- a 12-page answer book.

Time allowed

- 1 hour 30 minutes

Instructions

- Use black ink or black ball-point pen.
- Write the information required on the front of your answer book. The **Examining Body** for this paper is AQA. The **Paper Reference** is LAW02.
- Answer **two** questions.
- Answer Question 1 and **either** Question 2 **or** Question 3.
- Do all rough work in your answer book. Cross through any work that 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 95.
Five of these marks will be awarded for your ability to:
 - use good English
 - organise information clearly
 - use specialist vocabulary where appropriate.

SECTION A: INTRODUCTION TO CRIMINAL LIABILITY

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this question: 45 marks

- 1 Andy saw Bilal standing at a bus stop as he drove past. Andy immediately stopped his car and, in an aggressive manner, ran over to Bilal shouting racist abuse and accusing him (falsely) of being involved in the kidnapping of a child. Andy then punched Bilal, knocking him to the ground. Andy then hit Bilal repeatedly with a rubbish bin which Andy had ripped from the bus stop.

Bilal's injuries included a fractured cheekbone and jaw, and severe cuts to his face from which he lost a lot of blood. Bilal needed major surgery to rebuild his face. Unfortunately, whilst Bilal was undergoing the surgery, the oxygen tube became disconnected and, as a result, he suffered significant brain damage.

- (a) Criminal offences require an *actus reus* which may include voluntary acts and omissions and causation.
- (i) Explain, using cases **and/or** examples, the meaning of 'voluntary acts and omissions'. (7 marks)
- (ii) Explain, using cases **and/or** examples, the meaning of 'causation'. (7 marks)
- (b) (i) Discuss the criminal liability of Andy for his behaviour before he punched Bilal. (7 marks)
- (ii) Discuss the criminal liability of Andy for the initial injuries to Bilal's face. (7 marks)
- (iii) Taking into account the explanations given in your answers to 1(a) and 1(b)(ii), discuss whether Andy would be found to have **caused** Bilal's brain damage. (7 marks)
- (c) (i) Outline the procedure that would be followed up to Andy's trial. (5 marks)
- (ii) Assuming that Andy is found guilty of any offence, outline the range of factors that the court may take into account before he is sentenced. (5 marks)

Answer **either** Section B **or** Section C.

SECTION B: INTRODUCTION TO TORT

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this question: 45 marks

- 2 Clare, a high-earning freelance journalist, had been shopping at Daxco supermarket on a very wet day. As she was returning to her car, she slipped and lost control of her fully-loaded trolley. The trolley crashed into the side of Eli's valuable vintage car, causing £4000 worth of damage. Clare suffered a broken hip and spent a long time in hospital having a hip replacement operation. She has been advised that her total claim for her injuries will be in the region of £70 000.

When the accident was investigated, it was discovered that the place where Clare had slipped was particularly dangerous, because there had been a diesel spill the previous day which Daxco had not properly cleaned up.

- (a) Negligence requires proof of duty, breach and damage.
- (i) Explain, using cases **and/or** examples, the meaning of the term 'duty of care'.
(6 marks)
 - (ii) Explain, using cases **and/or** examples, the meaning of the term 'breach of duty', including *res ipsa loquitur*.
(10 marks)
 - (iii) Explain, using cases **and/or** examples, the meaning of the test of reasonable foreseeability in relation to damage.
(5 marks)
- (b)
- (i) Using the explanations given in your answers to 2(a)(i) and 2(a)(ii), discuss whether Daxco owed a duty of care to Clare and, if so, whether they were in breach of that duty.
(7 marks)
 - (ii) If it could be proved that Daxco owed a duty of care to Eli, and that Daxco had breached that duty, discuss whether the damage to Eli's vintage car was too remote.
(7 marks)
- (c)
- (i) Identify which court(s) would hear Eli's and Clare's claims for negligence and outline which track(s) their cases would be allocated to.
(5 marks)
 - (ii) Assuming Daxco was found to have been negligent, outline how the court would calculate an award of damages to **Clare** in the above situation.
(5 marks)

Turn over ►

Answer **either** Section B **or** Section C.

SECTION C: INTRODUCTION TO CONTRACT

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this question: 45 marks

- 3 Farah decided to get some logs delivered to her house. She saw an advertisement in the local paper, “Logs £45 a load – leave details and I will deliver. Phone Gareth 7867752.”

Farah telephoned Gareth on Monday and left her details on Gareth’s answering machine. She asked for a load of logs to be delivered the following Saturday. Farah was particularly pleased as the usual price of a load of logs was £60.

On Tuesday morning, Gareth left a message saying that the logs would be delivered between 10am and 12 noon on Saturday, as requested. However, on Friday, Gareth rang back and explained that, as his supplier had let him down, he would no longer be able to deliver Farah’s order.

- (a) A valid contract requires an offer, acceptance, intention to create legal relations and consideration. If one party to the contract does not do what has been agreed, this is likely to amount to a breach of contract.
- (i) Explain, using cases **and/or** examples, the distinction between an offer and an invitation to treat. *(7 marks)*
- (ii) Explain, using cases **and/or** examples, the meaning of ‘consideration’ and of ‘past consideration’. *(7 marks)*
- (iii) Explain, using cases **and/or** examples, the meaning of ‘actual breach’ and of ‘anticipatory breach’. *(7 marks)*
- (b) (i) Discuss whether there has been an offer and an acceptance in the dealings between Farah and Gareth. *(7 marks)*
- (ii) Assuming there was a contract between Farah and Gareth, identify the consideration in this contract **and** discuss whether Gareth was in breach and when that breach may have occurred. *(7 marks)*
- (c) (i) Assuming that Gareth had broken his contract with Farah, identify which court would hear Farah’s claim, and to which track the case would be allocated. Outline **one** way in which their dispute could be settled without going to court. *(5 marks)*
- (ii) Outline how the court calculates an award of damages. Outline how much Farah might be awarded as damages for Gareth’s breach if the case went to court. *(5 marks)*

END OF QUESTIONS