



General Certificate of Education
Advanced Subsidiary Examination
June 2010

Law

LAW02

Unit 2 The Concept of Liability

Thursday 10 June 2010 9.00 am to 10.30 am

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 questions on **two** scenarios.
- Answer **all** questions on Scenario 1 (Section A), and choose **either** Scenario 2 (Section B) **or** Scenario 3 (Section C) and answer **all** questions on the scenario you choose.
- Do all rough work in your answer book. Cross through any work 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 94.
- In Questions

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0	8
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 and

1	7
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, marks will be awarded for Assessment Objective Three (AO3), and so you will be marked on your ability to:
 - use good English
 - organise information clearly
 - use specialist vocabulary where appropriate.

Section A Introduction to Criminal Liability

Answer **all** questions on Scenario 1.

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

Total for this scenario: 47 marks

Scenario 1

Carl was waiting patiently in a queue at a fast food outlet. Dan, who was behind him, was in a hurry and was becoming very angry about the slow service. When the queue moved forward, Carl did not immediately move forward as well. This annoyed Dan, who pushed Carl in the back, causing him to stumble and fall on to Enid, an old and frail lady. Enid was knocked over by Carl's fall, but Carl was unhurt.

Dan, who had never been in trouble with the police, was horrified at what had happened and immediately gave all possible help to Enid, who was later diagnosed with a broken hip.

Criminal liability usually depends on proof of *actus reus*, including causation. *Mens rea* must usually be directed at the victim unless the transferred malice rule applies.

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|-------|---|-----------------------------|
| 0 1 | Explain the meaning of the term 'causation'. | (7 marks) |
| 0 2 | Explain the meaning of the term ' <i>mens rea</i> '. | (7 marks) |
| 0 3 | Explain the meaning of 'transferred malice'. | (5 marks) |
| 0 4 | Discuss the criminal liability of Dan for pushing Carl. | (7 marks) |
| 0 5 | Discuss the criminal liability of Dan for the injuries suffered by Enid. | (7 marks) |
| 0 6 | Outline the procedure that would be followed if Dan was charged with a summary offence. | (5 marks) |
| 0 7 | Outline the range of sentences available to the court and the factors the court would consider if Dan was convicted of an offence in respect of Enid's injuries. | (7 marks + 2 marks for AO3) |

Choose **either** Scenario 2 (Section B) **or** Scenario 3 (Section C) and answer **all** questions on the scenario you choose.

Section B Introduction to Tort

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

Total for this scenario: 47 marks

Scenario 2

Richard was using a chainsaw to cut down a tree in his garden next to Gordon's house. He was cutting a large branch when he lost control and the branch fell on to Gordon's conservatory where Janet was sitting.

Janet was trapped in the damaged conservatory but was, at that time, unhurt. Richard rushed to cut her free. In his haste, he did not notice wood splinters flying from his saw towards her. Some of the splinters went into her eyes.

Janet had very sensitive eyes, so, as soon as she was freed, she was taken to hospital for a check-up. The inexperienced doctor missed small splinters which, because of her unusual sensitivity, caused her to go blind.

The blindness affects both her job as a book editor, and her hobby of bird-watching. Janet's solicitor thinks that she could receive over £150 000 in damages. The damage to Gordon's conservatory is £10 000.

Negligence requires proof of duty of care, breach of duty and damage.

- 0 8** Explain the meaning of the term 'breach of duty'. (7 marks + 2 marks for AO3)
- 0 9** Damage involves the rules of **causation** and **remoteness of damage**. Outline the meaning of these rules. (7 marks)
- 1 0** Assume that Richard owed a duty of care to Gordon **and** to Janet. Discuss whether Richard was in breach of these duties. (7 marks)
- 1 1** Assuming that Richard was in breach of his duty of care to Janet, discuss whether Janet's blindness was too remote. (7 marks)
- 1 2** Assume that Janet and Gordon decide to claim against Richard in negligence. Outline which track(s) these two cases would be allocated to **and** identify which court(s) would hear these two negligence claims. (5 marks)
- 1 3** Outline the burden of proof in negligence cases **and** how the principle of *res ipsa loquitur* may affect this. (5 marks)
- 1 4** Assuming that Richard was found to have been negligent, explain how the court(s) would calculate an award of damages to Janet **and** to Gordon. (7 marks)

Turn over ►

Choose **either** Scenario 2 (Section B) **or** Scenario 3 (Section C) and answer **all** questions on the scenario you choose.

Section C Introduction to Contract

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

Total for this scenario: 47 marks

Scenario 3

Juan decided to buy a new computer. He saw an advertisement in the newspaper from PD & Co (PD), "Brand new computers from £250 – phone now."

Juan telephoned PD immediately and asked for a price for a computer with features that he wanted. PD rang back with a price of £400, but had to leave him a message as Juan was on the phone. The message was "Sold to you for £400 – ring back with your card number and details."

Juan did not pick up the message and bought a computer from AB instead for £345. Two weeks after installation, the computer broke down. AB was unable to repair it and, because of supply problems, could not supply Juan with a similar computer. Juan therefore bought one elsewhere which cost him £395.

A valid contract requires an offer, acceptance, an 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.

- 1 | 5** Explain the ways in which an offer can come to an end. *(7 marks)*
- 1 | 6** Explain the meaning of 'intention to create legal relations'. *(7 marks)*
- 1 | 7** Explain the meaning of the term 'breach of contract'. *(7 marks + 2 marks for AO3)*
- 1 | 8** Discuss whether there has been offer and acceptance in the dealings between Juan and PD. *(7 marks)*
- 1 | 9** Explain the meaning of the term 'consideration' **and** identify the consideration in the contract between Juan and AB. *(7 marks)*
- 2 | 0** Assuming that Juan has decided to sue AB for breach of contract, identify which court would hear Juan's claim **and** the track to which the case would be allocated. Outline the opportunities there would be for settlement of the dispute without going to court. *(5 marks)*
- 2 | 1** If Juan were successful in his claim against AB, outline how the court would calculate an award of damages. *(5 marks)*

END OF QUESTIONS