



General Certificate of Education
Advanced Subsidiary Examination
January 2012

Law

LAW02

Unit 2 The Concept of Liability

Thursday 19 January 2012 1.30 pm to 3.00 pm

For this paper you must have:

- an AQA 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 **0 3**, **0 9** and **1 5**, **two** 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: 45 marks + 2 marks for AO3

Scenario 1

Kai was using a mini digger to dig a trench on his drive. His neighbour, Lionel, saw what he was doing and started to make fun of Kai's efforts. Kai lost his temper and spun the digger round to scare Lionel. Unfortunately, he caught Lionel's jacket with the digger, pulling him down into a puddle. Lionel was not hurt, but did swallow some muddy water and started to vomit shortly afterwards. He went to the hospital where he was given an antibiotic injection. Unfortunately, Lionel suffered an allergic reaction to the antibiotic, which has left him with permanent brain damage.

Actus reus usually depends on proof of an act, causation and a criminal consequence. *Mens rea* is also required for criminal liability, but there is an exception where the offence is one of strict liability.

- 0 | 1** Explain the meaning of the term 'causation' in criminal law. (8 marks)
- 0 | 2** Explain the meaning of, and the reasons for, strict liability in criminal offences. (8 marks)
- Refer to the scenario when answering the remaining questions in this section.**
- 0 | 3** Discuss the criminal liability of Kai with respect to the incident with the digger. (You should ignore the brain damage suffered by Lionel as a result of the injection.) (10 marks + 2 marks for AO3)
- 0 | 4** Discuss whether Kai **caused** Lionel's brain damage. (6 marks)
- 0 | 5** Briefly explain the aims of sentencing **and** outline the range of sentences available to the court if Kai were to be convicted of any offence. (8 marks)
- 0 | 6** Outline the procedure, up to the trial, that would be followed if Kai were charged with a summary offence. (5 marks)

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: 45 marks + 2 marks for AO3

Scenario 2

Brian was visiting his friend, Elaine. Elaine was very keen to show off the garden seat that she had put together from a self-assembly pack. Unfortunately, Elaine had not fitted the seat together properly. When Brian sat on the seat, it collapsed. Although Brian suffered only minor injuries, his new phone was smashed as he fell. The phone would cost £400 to replace. A few minutes later, Brian was unable to receive a call on his phone offering him work which would have earned him a profit of £6000.

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

- 0 | 7** Explain how the law decides whether a duty of care is owed in negligence. (8 marks)
- 0 | 8** Damage in negligence involves the rules of factual causation **and** the rules of remoteness of damage. Explain these rules. (8 marks)

Refer to the scenario when answering the remaining questions in this section.

- 0 | 9** Discuss whether Elaine owed a duty of care to Brian. (8 marks + 2 marks for AO3)
- 1 | 0** Assuming that Elaine owed a duty of care to Brian, discuss whether she was in **breach** of that duty. (8 marks)
- 1 | 1** Assuming that Elaine were to be found liable in negligence, explain how the court would calculate an award of damages to Brian. (8 marks)
- 1 | 2** Outline the three-track case management system used in the civil courts **and** identify which track and which court are most likely to be used in a claim that Brian could make against Elaine in the following situations:
- if he had only smashed his phone
 - if he were claiming for the phone, minor injuries and the lost profit. (5 marks)

Turn over for the next section

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: 45 marks + 2 marks for AO3

Scenario 3

Liam wanted to buy a set of wireless microphones for his band. He looked on Sound Systems Ltd's (SSL) website, which claimed, 'Special offer: all you need for a five-piece band – top brand wireless system – ready for immediate use at only £1950.' Liam e-mailed SSL and said he would like to buy the system, if it was compatible with his XYZ amplifier. SSL confirmed the equipment was compatible and asked whether he would like to proceed with the purchase. Liam e-mailed back, asking whether they would accept £1750. SSL replied, saying that they could supply the system for £1900, including postage. Liam replied, 'Agreed'. When the system arrived, Liam found that he needed to buy battery packs that cost an extra £150 and that they could not be delivered for some days, requiring him to cancel a performance.

A valid contract requires an offer, acceptance, an intention to create legal relations and consideration.

- 1 | 3** Explain the difference between an offer and an invitation to treat. *(8 marks)*
- 1 | 4** Outline the meaning of the terms 'intention to create legal relations' **and** 'consideration'. *(8 marks)*

Refer to the scenario when answering the remaining questions in this section.

- 1 | 5** Briefly discuss the legal effect of each stage in the negotiations between Liam and SSL, and decide whether those negotiations resulted in a contract. *(8 marks + 2 marks for AO3)*
- 1 | 6** Briefly explain the law with respect to breach of contract. Assume that there is a contract between Liam and SSL and briefly discuss whether SSL is in breach of that contract. *(8 marks)*
- 1 | 7** Explain how the court would decide the amount of damages to be awarded to Liam if SSL were found to be in breach of contract. *(8 marks)*
- 1 | 8** Outline the three-track case management system used in the civil courts **and** briefly explain which track and which court are most likely to be used in any claim that Liam could make against SSL. *(5 marks)*

END OF QUESTIONS