



General Certificate of Education
Advanced Subsidiary Examination
January 2013

Law

LAW02

Unit 2 The Concept of Liability

Monday 21 January 2013 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 **03**, **09** and **15**, **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

Vlad was driving his car, which was fitted with foreign registration plates. He was lost and drove down a dead-end road, where he noticed Wayne. As Vlad started to get out of his car to ask directions, Wayne ran towards the car shouting, "We don't want your sort here!" Wayne then tried to slam the car door shut and, in doing so, crushed Vlad's fingers.

Vlad drove off, turned the car round and then accelerated hard towards Wayne who was still standing in the road. Frightened, Wayne jumped out of the way, just as Vlad swerved to avoid him. Wayne did not suffer any injury.

Later, Vlad went to hospital where X-rays showed that he had three badly broken fingers. As a result, Vlad now has a permanent disability.

Actus reus usually depends on proof of an act or omission, 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, using **three** examples, how an omission can be the basis of the *actus reus* of a crime. (7 marks)
- 0 | 2** Briefly 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 Wayne for the injuries suffered by Vlad. (10 marks + 2 marks for AO3)
- 0 | 4** Discuss the criminal liability of Vlad for the incident when he drove the car at Wayne. (8 marks)
- 0 | 5** Outline the procedure, up to the start of the trial, which would be followed if Vlad were charged with a summary offence. (5 marks)
- 0 | 6** Assuming that Wayne had been convicted of an offence, discuss the factors that the court would consider before deciding on sentence. (7 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

Ryan had just collected his car from Sam's garage, where Sam had been working on the brakes. Sam told Ryan that the work was complete, but, in fact, Sam had forgotten to tighten the handbrake cable. Ryan parked his car on a hill, applied the handbrake and got out. The handbrake failed to hold the car which rolled down the hill and crushed Tanya, who was loading shopping into the back of her van.

As a result of the collision, both Ryan's car and Tanya's van were slightly damaged. Tanya also suffered injuries leading to some loss of mobility which is now permanent. Therefore, she can no longer work as a self-employed courier and can no longer play sports. Tanya's loss of mobility is unusual for her type of injuries.

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 Breach of duty requires the defendant's conduct to have fallen below the standard of the reasonable man. This is decided by applying one or more of various risk factors.

Outline what is meant by the reasonable man **and** briefly explain **one** of the risk factors. (8 marks)

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

0 9 Discuss whether Sam owed a duty of care to Tanya. (8 marks + 2 marks for AO3)

1 0 Ignoring factual causation, outline the law on remoteness of damage in negligence and discuss whether any of Tanya's losses are too remote. (8 marks)

1 1 Assuming that Sam was sued for negligence by Tanya, outline the procedure which would be followed before a trial took place. (5 marks)

1 2 Assuming that Sam was found liable in negligence, discuss how the court would calculate an award of damages to Tanya. (8 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

Angi owned a mobile fish and chip van, which served people in local villages from Monday to Friday. She always had her van serviced and repaired by Boris who, knowing when she worked, always did the servicing and repairs at weekends.

Angi asked Boris if he could make some repairs to her van the following weekend. Boris said that he would be able to finish the work on Monday. Angi agreed, provided that the van was ready by noon on Monday. She took the van in on Saturday morning and Boris started the work. In fact, Boris did not finish the work until Wednesday, and Angi lost two days' profits (£300). She also had to cancel a special order for a local cycling club on that Tuesday night, which meant she lost a further £200 profit.

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

- 1 | 3** Explain the meaning of, and distinguish between, an offer and an invitation to treat. *(8 marks)*
- 1 | 4** Explain the meaning of, and distinguish between, 'actual breach' and 'anticipatory breach'. *(8 marks)*

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

- 1 | 5** Briefly discuss the stages of offer and acceptance in the agreement between Angi and Boris **and** identify the consideration in this agreement. *(8 marks + 2 marks for AO3)*
- 1 | 6** Outline the meaning of 'intention to create legal relations' and briefly explain how this applies to the agreement between Angi and Boris. *(8 marks)*
- 1 | 7** Outline the three-track case management system used in the civil courts **and** identify which track and which court would be used in any claim that Angi could make against Boris. *(5 marks)*
- 1 | 8** Briefly explain the law relating to the awarding of damages in contract and briefly discuss how this would apply to Angi's claim against Boris. *(8 marks)*

END OF QUESTIONS