

OXFORD CAMBRIDGE AND RSA EXAMINATIONS

Advanced GCE

LAW

2579

Law of Torts Special Study

Friday **28 JANUARY 2005** Morning 1 hour 30 minutes

Additional materials:
16-page Answer Booklet
Special Study Materials

TIME 1 hour 30 minutes

INSTRUCTIONS TO CANDIDATES

- Write your name, Centre number and candidate number in the spaces provided on the answer booklet.
- Answer **all** questions.
- If you use additional sheets of paper, fasten these securely to the answer booklet.

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 **100**.
- **All questions should be answered in continuous prose. You are reminded, therefore, that you will be assessed on your ability to organise and present information and arguments logically and coherently, and to communicate clearly and accurately, taking into account grammar, punctuation and spelling.**

This question paper consists of 2 printed pages.

You are reminded of the importance of including relevant knowledge from all areas of your course, where appropriate, including the English Legal System.

Answer all questions.

- 1 In Source 1 [page 2 lines 22–24 Special Study Materials] Lord Denning identifies that: “ in times past the House of Lords used to correct errors into which the lower courts had fallen – and indeed errors into which the House itself or its predecessors had fallen – and ... it used to create new precedents to meet new situations. ”

Consider the extent to which this is an accurate description of the application of precedent in the House of Lords before and after the introduction of the Practice Statement 1966. [25]

- 2 Discuss the extent to which the precedent in Page v Smith [Source 12 pages 7–8 Special Study Materials] represents a development of the law on nervous shock (Psychiatric Damage). [15]

- 3 As Lord Ackner observed in Alcock [Source 10 page 6 lines 1–3 Special Study Materials] “Because shock is capable of affecting such a wide range of persons, Lord Wilberforce in McLoughlin v O’Brien concluded that there was a real need for the law to place some limitation upon the extent of admissible claims. ”

Consider the extent of the limitations applied to secondary victims and whether they do in fact meet ‘a real need’. [30]

- 4 A large crane is being used in building work immediately adjacent to the law school where Chris works as a lecturer. Through the negligence of the construction firm, Bodgejob, part of the crane falls off and drops on Chris as he is walking into the law school causing him severe injuries.

Consider the possibility of each of the following succeeding if they claim against Bodgejob:

- a) Jennifer, a lecturer and Chris’s friend, is in the law school at the time of the accident, and on hearing of the accident looks through the window and seeing the extent of Chris’s injuries suffers post traumatic stress disorder.
- b) Sukhy, another lecturer and close friend of Chris’s, on hearing of the accident rushes out of the law school and on realising that Chris’s heart has stopped, resuscitates him and keeps him alive until the emergency services arrive. While Sukhy is doing this there is always a danger that more of the crane will drop. Sukhy suffers severe depression as a result and cannot return to work.
- c) Karen, Chris’s wife, is called immediately and is at the hospital entrance when Chris arrives in the ambulance. She suffers grief when Chris is pronounced dead.

[30]