

Pearson BTEC Level 3 Nationals Certificate, Extended Certificate

January 2019

Paper Reference **20168K**

Applied Law

Unit 1: Dispute Solving in Civil Law

Part A

You do not need any other materials.

Instructions

- **Part A** contains material for the completion of the preparatory work for the Set Task in **Part B**.
- **Part A** is given to learners one week before **Part B** is scheduled. Learners are advised to spend no more than 6 hours on **Part A**.
- **Part A** must be given to learners on the date specified by Pearson so that learners can prepare in the way specified.
- **Part A** is specific to each series and this material must only be issued to learners who have been entered to take the task in that series.
- **Part B** materials for the Set Task must only be issued to learners on the date specified by Pearson.

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Instructions to Teachers/Tutors

This paper must be read in conjunction with the information on conduct for the task in the unit specification and in the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

This Set Task has a preparatory period. **Part A** sets out how learners should prepare for the completion of the task under supervised conditions.

Learners should undertake independent research on the **Part A** Set Task Information given in this booklet.

Learners are advised to spend no more than 6 hours undertaking **Part A**.

Centres must issue this booklet at the appropriate time and advise learners of the timetabled sessions during which they can prepare. It is expected that scheduled lessons or other timetabled slots will be used for some or all of the preparation.

Learners may prepare summary notes on the **Part A** Set Task Information. Learners may take up to two A4 sides of notes into the supervised assessment period (**Part B**). Learner notes must only contain details of legal principles and authorities, such as case law and statute law. Learner notes must also comply with the guidelines stated in the Administrative Support Guide for this unit.

Teachers/tutors cannot give any guidance or feedback to learners in the preparation of assessment notes, which must be completed independently by the learner.

The **Part B** supervised assessment will take place in a timetabled slot on a date specified by Pearson.

Refer carefully to the instructions in this booklet and the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document to ensure that the preparatory period is conducted correctly so that learners have completed their preparation validly and independently.

Learner notes will be retained securely by the centre after the **Part B** supervised assessment and may be requested by Pearson if there is suspected malpractice.

Instructions for Learners

Read the Set Task Brief and the Set Task Information carefully.

This contains **Part A** of the information you need to prepare for the Set Task in **Part B**.

In **Part B** you will be given detailed information. Use this **Part A** booklet to prepare by relating your learning to the specific information given.

You must work independently and must not share your work with other learners.

Your teacher/tutor may give you guidance on when you can complete the preparation.

Your teacher/tutor cannot give you guidance or feedback in the preparation of your assessment notes.

Set Task Brief

You must research the law relating to the extracts in the **Part A** Set Task Information.

You need to know about the law of negligence, including damages.

You also need to know about civil dispute resolution, enforcement of civil law and how precedent works.

In **Part B** you will need to apply your research to the new information provided.

Using this **Part A** booklet, you may prepare short notes to refer to when completing the Set Task in **Part B**, for example on specific cases. Your notes may be up to two sides of A4. Your notes must only contain details of legal principles and authorities, such as case law and statute law.

You are advised to spend no more than 6 hours on this research.

Part A Set Task Information

SOURCE A

The file of a client, Ahmed Khan, has been passed to you for further action. Ahmed is a 19-year-old student. He was badly injured in a collision with a car when he was cycling to university. Ahmed wants to sue the car driver, Bilal Patel, in negligence. You have been directed to the following legal authorities that you have been told will be important.

SOURCE B

Establishing causation in negligence claims

Once a duty of care and breach of that duty has been established, causation of damage must be proved. As a general rule the damage caused must be reasonably foreseeable (***The Wagon Mound (No 1)* [1961]**). As long as the type of damage is reasonably foreseeable, the full extent of the damage can be more serious than could reasonably be anticipated. The most comprehensive expression of this principle can be seen in the so-called 'thin skull' rule:

The thin skull rule asserts that 'you must take your victim as you find him/her'. In other words, if the damage done to your victim is greater than could be foreseen, due to some vulnerability or special circumstance of the victim, then you remain responsible for the full extent of the harm done. The rule can be seen in cases such as:

***Smith v Leech Brain* [1961] 3 All ER 1159**

A worker suffered a burn to his lip when he was splashed with molten metal as a result of his employer's negligence. As a result of the burn, a pre-existing cancerous condition was aggravated and the man died. His widow sued the employer who was held liable because 'you must take your victim as you find them'.

***Robinson v The Post Office* [1974] 2 All ER 737, CA**

A worker slipped on a ladder as a result of oil on the ladder due to the employer's negligence. He suffered minor injuries and was sent to hospital where he was given an anti-tetanus injection. As a result of the injection he suffered encephalitis (inflammation of the brain) due to an allergy that he was unaware of. The employer was held liable for both the minor injury and the encephalitis. Where a defendant ought reasonably foresee that medical treatment might be a result of his/her wrongful act, then he/she is responsible for the consequences of the treatment even though he/she could not reasonably foresee the exact consequences.

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Wednesday 9 January 2019

Supervised hours: 1 hour 30 minutes

Paper Reference **20168K**

Applied Law

Unit 1: Dispute Solving in Civil Law

Part B

You do not need any other materials.

Instructions

- **Part B** contains material for the completion of the Set Task under supervised conditions.
- **Part B** should be undertaken by learners in 1 hour 30 minutes on the date specified by Pearson.
- **Part B** is specific to each series and this material must only be issued to learners who have been entered to undertake the task in that series.
- **Part B** should be kept securely until the start of the supervised assessment period.
- This booklet should not be returned to Pearson.

Information

- The total mark for this Set Task is 60.

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Instructions to Teachers/Tutors and/or Invigilators

This paper must be read in conjunction with the information on conduct for the task in the unit specification and the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

The **Part B** Set Task is undertaken under supervision in a single session of 1 hour 30 minutes on the timetabled date.

The **Part B** Set Task requires learners to apply research. Learners should bring in notes as defined in **Part A**. The teacher/tutor and/or invigilator needs to ensure that notes comply with the requirements set out in the Administrative Support Guide for this unit.

Learners will need to complete the activities for the **Part B** Set Task using a computer.

The **Part B** Set Task is undertaken in a single session of 1 hour 30 minutes in a timetabled period. In order to enable learners to have access to computer resources, a period of one day is provided for centres to timetable the assessment.

Centres should schedule all learners in the same session if possible and must release **Part B** to individual learners only for their scheduled session.

Learner work must be completed independently and authenticated before being submitted to Pearson by the teacher/tutor and/or invigilator.

Learners must not bring anything into the supervised environment or take anything out of it without your knowledge and approval.

Centres are responsible for putting in place appropriate checks to ensure that only permitted material is introduced into the supervised environment.

Maintaining security

- During supervised assessment periods, the assessment areas must be accessible only to the individual learners and to named members of staff.
- Learners can access their work only under supervision.
- Any work that learners produce under supervision must be kept securely.
- Any materials being used by learners must be collected in at the end and retained by the centre.
- Learner notes related to **Part A** must be checked to ensure length and contents comply with the requirements. Learner notes will be retained securely by the centre after **Part B** has been undertaken and may be requested by Pearson if there is suspected malpractice.

Outcomes for submission

Learners need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a solicitor's letter for Activity 2
- a completed Declaration of Authenticity.

Instructions for Learners

Read the activities **and** the Set Task Information carefully.

You have a total of 1 hour 30 minutes in this session to complete the task.

You should use the notes you prepared during **Part A** to complete this Set Task.

Your notes must be your own work and will be retained by your centre until results are issued.

You will complete this Set Task under supervision and your work will be kept securely at all times.

You must work independently throughout the supervised assessment period and must not share your work with other learners.

You should complete **both** activities.

Outcomes for submission

You will need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a solicitor's letter for Activity 2
- a completed Declaration of Authenticity.

Your work must be word processed in size 12-point font.

Your prepared notes do not need to be submitted with the final outcomes to Pearson.

Set Task

You should complete **both** activities.

Using the information provided in the Set Task Information and your notes from **Part A**, complete the following activities.

Activity 1

You are a legal executive working in the personal injury department of Slyme's LLP. You have been given the case file of a client, Ahmed Khan.

You have been asked to prepare file notes to be included in the Client Advice File relating to Ahmed's case.

The file notes need to:

- show your understanding of the law relevant to the law of negligence
- show how the law of negligence applies to this case
- establish the likely outcome of the case.

(Total for Activity 1 = 30 marks)

Activity 2

Ahmed has been told of the likely outcome of the case and he now wants more advice.

Prepare a solicitor's letter that shows your understanding of:

- the likely damages Ahmed could expect if he is successful
- the ways the claim could be funded and other possible sources of advice
- the appropriate track and civil court, and why Alternative Dispute Resolution might not be suitable for Ahmed's case.

(Total for Activity 2 = 30 marks)

TOTAL FOR PAPER = 60 MARKS

Set Task Information

Extracts of Case File: Ahmed Khan

Your client, Ahmed (aged 19), suffered injuries to his back and legs when he was knocked off his bicycle when passing a parked car. The car driver, Bilal Patel, opened the car door, hitting Ahmed as he was passing the car and knocking him off his bike. At first, Ahmed's injuries did not seem to be serious but, by the time he reached the hospital, he was paralysed from the waist down (lost all use of his legs).

The police were called to the incident and they have both CCTV footage and witness statements to confirm that:

- Ahmed was cycling responsibly and at a reasonable speed
- he was wearing a hi-viz jacket
- he was not wearing a helmet
- Mr Patel was in an obvious hurry
- Mr Patel didn't look over his shoulder or check his mirrors before opening his car door as Ahmed cycled past
- there was nothing Ahmed could have done to avoid the collision with the door.

The hospital did a scan and was able to identify that Ahmed had a pre-existing spinal condition, which left him vulnerable to serious nerve damage if his spine was injured. This is what caused Ahmed's paralysis, which the hospital says is permanent. The report also confirmed that had Ahmed been wearing a helmet it would have made no difference to his injuries.

Ahmed was studying to become a dancer, which is a career he will be unable to pursue now he is in a wheelchair. He had been identified as a talented dancer with a very promising future. However, he will now have long-term, complex care needs and will be unable to do many of the things he had planned for both professionally and personally.

Being a dancer was the whole focus of Ahmed's life and he has now become clinically depressed and agoraphobic (in Ahmed's case he is afraid to go outdoors) as a result of the accident.

Mr Patel is a wealthy local businessman and has full legal insurance.

As a student, Ahmed is unsure if he can afford to hire a lawyer without any financial help. He needs advice on whether he could rely on legal aid, how a conditional fee arrangement might work and any other ways to get legal help.

Ahmed has also told you that Mr Patel is conscious of his reputation as a local businessman and wishes to avoid any publicity if possible.



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