

Centre Number						Candidate Number				
Surname										
Other Names										
Candidate Signature										

For Examiner's Use	
Examiner's Initials	
Question	Mark
1	
2	
3	
4	
TOTAL	



General Certificate of Secondary Education
June 2012

Law

41602

Unit 2 Law in Action

Friday 25 May 2012 1.30 pm to 3.00 pm

You will need no other materials.

Time allowed

- 1 hour 30 minutes

Instructions

- Use black ink or black ball-point pen.
- Fill in the boxes at the top of this page.
- Answer any **two** questions based on the topics you have studied.
- Answer **all** parts of the questions you choose.
- You must answer the questions in the spaces provided. Do not write outside the box around each page or on blank pages.
- Do all rough work in this book. Cross through any work you do not want to be marked.
- Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Information

- The marks for questions are shown in brackets.
- The maximum mark for this paper is 90.
- In questions 1(e), 2(e), 3(c)(iv) and 4(b)(iii), you will be marked on your ability to:
 - use good English
 - organise information clearly
 - use specialist vocabulary where appropriate.
 Answer these questions in **continuous prose**.

Advice

- You are advised to spend no more than 45 minutes on each of the two questions you answer, and to read through **all** parts of a question before you start your answer.



J U N 1 2 4 1 6 0 2 0 1

Answer any **two** questions based on the topics you have studied during your course.

Carefully read all questions before you make your choice.

Answer **all** parts of the questions you choose.

As you work through the parts of the questions you choose, you will need to refer back to the scenario which is given at the beginning of each question.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Tort

- 1 The tort of negligence is based upon the claimant being able to prove that the defendant was in breach of a duty of care, and that the claimant suffered damage as a result. Liability will result in an award of damages, which can be reduced if the claimant has contributed in some way towards his own loss.

The claimant will normally sue the defendant directly. However, in some situations, the damages may be paid either by an insurance company or by the defendant's employer. This is generally referred to as vicarious liability.

Where injury is caused to a person on land occupied by another, liability can arise under either the Occupiers' Liability Act 1957 or the Occupiers' Liability Act 1984.

The Problem

You are employed in the Legal Department of Eastshire County Council, with particular responsibility for advising schools when legal problems occur. During the course of one term, the following situations arose.

- Ann, a member of staff, drove quickly into Barchester School carpark, skidded on a patch of ice and crashed her car into Carol's car. Carol's car was badly damaged. The school caretaker had been told to spread salt in the carpark, but had forgotten to do so.
- Dougal is employed by Eduteen High School and is responsible for organising visits by Year 6 primary school pupils. On one such visit, Dougal was escorting a group of 10-year-olds, including Florence, around the Science Block. Dougal failed to notice that Florence had left the group and entered a storeroom containing dangerous chemicals. The storeroom was open because Gavin, the chemistry teacher, had forgotten to lock it. Florence knocked over a bottle of acid which caused her serious burns. In going to help Florence, Dougal also suffered burns to his hands.
- Hari, aged 12, and Imran, aged 17, are pupils at Jon Anderson School (JAS). They sneaked back after school, hoping to get back their mobile phones which had been confiscated. Hari went into the school office where he tripped over a loose electric cable and broke his arm. Imran tripped on some loose carpet and banged his head. Imran was taken to hospital where doctors found that he had been born with an unusual medical condition which means that he has a weak skull. Therefore, as a result of bumping his head, Imran suffered a severely fractured skull and brain damage.



1 (c) Eduteen High School (EHS) has contacted you, indicating that Florence **and** Dougal are considering suing the school for negligence.

1 (c) (i) Consider whether, in these circumstances, EHS owed Dougal a duty of care.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

(4 marks)

Extra space

.....
.....
.....

1 (c) (ii) Consider whether, in these circumstances, EHS was in breach of a duty of care to Florence.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Turn over ►



1 (d) (ii) Consider whether, in these circumstances, JAS would be liable to **Imran** for his fractured skull and brain damage.

.....
.....
.....
.....
.....
.....
.....
.....
.....

(4 marks)

Extra space

.....
.....
.....

1 (d) (iii) Briefly explain what is meant by contributory negligence **and** the effect that this would have in a negligence case.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

(4 marks)

Turn over ►



Criminal Law

- 2 Theft is defined as the dishonest appropriation of property belonging to another with the intention of permanently depriving the other of it. Robbery is defined as a theft accomplished by the use or threat of force.

The crime of involuntary manslaughter can be committed in a number of ways, such as:

- constructive (unlawful act) manslaughter, based upon an unlawful and dangerous act
- gross negligence manslaughter, based upon either a lawful act performed badly or upon a failure to act when required.

There is also a range of non-fatal offences against the person, including the offences of:

- assault and battery (common assault)
- assault occasioning actual bodily harm
- wounding
- grievous bodily harm.

The Problem

Kelly and Lorraine are members of a gang which gets involved in various criminal activities. On one occasion, Kelly hid at one end of a quiet footpath while Lorraine waited at the other. As Martin was walking along the footpath, Lorraine shouted at him that she would “kick his head in” if he came any closer. Kelly then crept up behind Martin, pushed him and grabbed his wallet. Kelly and Lorraine then both ran away. As they ran, Lorraine deliberately pushed Nell, an old lady, out of the way. Nell stumbled and banged her head on a rock as she fell. Kelly went back to see if she could find Nell’s purse but, when she saw that Nell was badly injured, she decided to leave her.

Nell lay at the side of the path for some time before she was discovered. She was then admitted to hospital where Oliver, a junior doctor, misread her X-ray and failed to diagnose a blood clot on her brain. A few hours later, Nell died. The medical evidence shows that earlier and better treatment would probably have saved her life.

The following day, the police, after taking a statement from Martin, went to arrest Kelly and Lorraine. In trying to make the arrest, PC Peel was punched in the face by Kelly. PC Peel suffered a deep cut from a ring worn by Kelly. Lorraine also attacked a police officer, PC Quo, who suffered two fractured ribs and a punctured lung.



2 (a) Discuss Lorraine’s criminal liability for what she shouted at Martin.

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

(4 marks)

Extra space

.....

.....

.....

2 (b) Consider Kelly’s criminal liability for pushing Martin **and** for taking his wallet.

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

(6 marks)

Turn over ►



.....
.....
.....
(4 marks)

Extra space

.....
.....
.....
.....

2 (c) (iv) Consider Oliver's liability for manslaughter.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
(5 marks)

Extra space

.....
.....
.....
.....



2 (d) Both Kelly and Lorraine are facing further charges for their actions when being arrested.

2 (d) (i) Briefly discuss Kelly's criminal liability for PC Peel's cut.

.....

.....

.....

.....

.....

.....

.....

.....

.....

(3 marks)

2 (d) (ii) Briefly discuss Lorraine's criminal liability for PC Quo's injuries.

.....

.....

.....

.....

.....

.....

.....

.....

.....

(3 marks)

2 (d) (iii) Comment on whether the law relating to non-fatal offences is in need of reform.

.....

.....

.....

.....

.....

.....

.....

.....

Turn over ►



.....
.....
.....
.....
.....
.....

(5 marks)

Extra space

.....
.....
.....
.....

2 (e) There are a number of general defences which can be pleaded in a criminal case. These include insanity, self-defence, consent and duress. Comment on how well the law operates for **one** of these defences. **(Answer in continuous prose.)**

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

(5 marks)



Extra space

.....

.....

.....

.....

45

Turn over for the next question

Turn over ►



Family Law

3 A valid marriage is based upon a voluntary union between two people who satisfy certain statutory requirements, including minimum age. Marriages which fail to meet these requirements can be classified as either void or voidable.

Divorce is granted if the petitioner proves that the marriage has broken down irretrievably. That proof is based on one of five facts.

A valid will must usually be in writing, signed by the testator and properly witnessed by two competent witnesses. These requirements can be relaxed for a 'privileged' will.

The estate of a person who dies, not having made a valid will, is distributed under the Intestacy Rules.

The Problem

Ron and Sally married 25 years ago and had three children. Tom died recently, aged 23. Una is 17 and Victoria is 15. Ron and Sally had been going through a difficult time in their marriage. Ron was convinced that Sally had been having a relationship with another man. As a result, Ron started drinking heavily and had occasionally been violent towards his wife. Both Ron and Sally had been considering divorce.

Tom joined the army five years ago and served in a war zone a year later. Whilst there, he made a written and signed will leaving everything to his two sisters. This will was never witnessed.

On his return to the UK, he met and later married Whitney. Shortly before their marriage, he made a new will, properly witnessed, leaving his entire estate to Whitney.

Two months ago, Tom was killed in a car crash, leaving Whitney and their one-year-old daughter, Yvonne.

Una and Victoria, fed up with their parents' constant rows, are planning to leave home and marry their boyfriends.

Two weeks ago, Ron was rushed into hospital with a serious illness and has been in a coma ever since. He is not expected to recover. His current estate is estimated to be about £370 000.

3 (a) About a month ago, Sally approached you for advice about a possible divorce. She had a leaflet with her which included some legal terms that she did not understand. Briefly explain the meaning of the following terms.

Irretrievable breakdown

.....

.....

.....



.....
.....
.....

Decree nisi and decree absolute

.....
.....
.....
.....
.....
.....
.....

Maintenance

.....
.....
.....
.....
.....
.....
.....

(8 marks)

3 (b) Consider whether Ron **and** Sally would both have been in a position to apply for a divorce.

.....
.....
.....
.....
.....
.....
.....

Turn over ►



.....
.....
.....
.....
.....
..... (6 marks)

Extra space

.....
.....
.....
.....

3 (c) (i) Briefly explain the difference between a **void** marriage and a **voidable** marriage.

.....
.....
.....
.....
.....
.....
.....
.....
.....
..... (3 marks)



3 (c) (ii) Outline the law that applies to the marriage of young people below the age of 18.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

(5 marks)

Extra space

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

3 (c) (iii) Outline the legal advice you would give to Una **and** to Victoria with respect to their planned marriages.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

(3 marks)

Turn over ►



Rights and Responsibilities

- 4 The law sets out the duties owed by one person to another and also the rights that people have. Many of these rights are contained within the Human Rights Act 1998. However, most of these rights are restricted in some way.

People have the right of personal liberty, but a corresponding duty not to break the law when exercising that right. For example, there is a duty not to enter upon another's land unlawfully.

People also have the right to communicate thoughts and ideas to others, both orally and in writing, but also have a duty not to damage the reputation of those they speak or write about. Breaching that duty can lead to an action for defamation.

People also have the right, subject to restrictions, not to be discriminated against in the workplace on the grounds of race, gender or disability.

Another of these rights is the right to a fair trial (irrespective of where the hearing takes place). In addition, there are special rules which protect children and other vulnerable people, both at the police station and in court.

The Problem

Zoe, aged 16, is a first year A-level student in Northtown College. Amy is one of her lecturers.

As part of a national protest against cuts in education funding, a march and rally were organised to take place on a Friday in Northtown town centre. Both Zoe and Amy decided to attend the protest. During the march, the police blocked off a street leading to the house of Bertram, the local MP, who was well known for supporting the education cuts. As a result, the protestors, including Zoe, took a short cut across private land leading to the back of Bertram's house. In the scuffle which followed, Zoe was arrested for a public order offence.

Later, at the rally outside the Town Hall, Craig, who had organised the protest, distributed leaflets attacking Bertram's private life. The leaflets accused Bertram of abandoning his family and living a secret life with his gay lover. Craig repeated these comments in a speech at the rally. The protest was widely reported in the local press, with photographs taken at the rally. One of the photographs included a picture of Amy holding a banner saying 'Stop the education cuts'.

When Amy returned to work the following Monday, she was called into the Principal's office and was dismissed for "unprofessional conduct". Amy is convinced that she has been unfairly treated, especially as she knows that a number of male colleagues also attended the rally, and no action has been taken against them.

- 4 (a) There are a number of exceptions to the right to personal liberty. In that context, outline what is meant by both **trespass to land** and **arrest**.

.....

.....

Turn over ►



.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

(6 marks)

Extra space

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

4 (b) There are a number of exceptions to the right to freedom of communication. One of those exceptions is the law of defamation.

4 (b) (i) Outline the differences between **libel** and **slander**.

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

(4 marks)



.....
.....
(5 marks)

Extra space

.....
.....
.....
.....

4 (c) (ii) If Amy were to pursue this matter, she would need to take her employer to a tribunal. Outline what is meant by an employment tribunal.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
(4 marks)

Extra space

.....
.....
.....

Turn over ►



There are no questions printed on this page

**DO NOT WRITE ON THIS PAGE
ANSWER IN THE SPACES PROVIDED**

