

Centre Number						Candidate Number				
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For Examiner's Use	
Examiner's Initials	
Question	Mark
1	
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TOTAL	



General Certificate of Secondary Education  
June 2011

# Law

# 41602

## Unit 2 Law in Action

Friday 27 May 2011 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(f), 2(g)(i), 3(d) and 4(b)(ii), 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 1 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 the question.

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

### Tort

- 1 The tort of trespass can be committed in three different ways.
- Trespass to land consists of the unlawful interference with the possession of another's land.
  - Trespass to goods consists of the unlawful interference with another's goods.
  - Trespass to the person can be committed in three different ways: assault, battery and false imprisonment.

The tort of nuisance exists in two different forms.

- Public nuisance consists of actions which cause annoyance, inconvenience or danger to the general public.
- Private nuisance consists of the unreasonable interference with a person's use or enjoyment of his land.

#### The Problem

Avis and her friend Becci have recently rented a student flat in a large house in a residential area. They have now realised that their house has caused significant annoyance for the local community. There have been frequent complaints about noisy late-night parties, drunkenness and general anti-social behaviour. Shortly after the girls moved in, the following incidents occurred.

Avis invited a few close friends to a flat-warming party. Unfortunately, the party was gate-crashed by some local youths. As a result, the party was much noisier and lasted much later than Avis had planned, and the whole neighbourhood was disrupted. In the house next door, Chay and his family were unable to sleep. This was usual for Chay, who is a very light sleeper.

A few days later, Becci's boyfriend, Dave, came to stay for a few days. Chay thought he recognised him as being one of the local youths, and was so angry that he threatened to "beat him up" if he saw him again. Becci tried to calm things but a scuffle followed, during which Becci was hit in the face by Chay.

Efraim, Chay's son, is always playing cricket with his friends in his garden. Their ball often goes into the students' garden. Efraim keeps climbing over the wall to fetch his ball. On the last occasion, the ball smashed Becci's designer sunglasses, which she had left on the garden table. Shortly after Becci was hit in the face by Chay, Dave saw Efraim climbing over the wall to get his ball. Angry at what had happened to his girlfriend, Dave hid the ball in the shed and then grabbed Efraim and locked him in the cellar for a couple of hours "to teach him a lesson".



1 (a)

The local residents have been advised that the 'activities' centred on the student house may amount to a **public** nuisance. Discuss whether or not the late-night parties, drunkenness and anti-social behaviour amount to a **public** nuisance. What would be the likely outcome if such a case were brought in the civil or criminal courts?

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1 (b) Chay is also considering suing for nuisance. Advise him as to how successful he might be and what remedies he may wish to apply for in court.

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**1 (c)** Discuss Chay's liability in trespass for his behaviour towards Dave and Becci.

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1 (d) (i) Consider Efraim's liability in trespass for his actions when hitting and fetching the cricket ball.

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1 (d) (ii) Consider Dave’s liability for his actions to Efrain and his cricket ball.

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**1 (e)** Compare and contrast the torts of nuisance and trespass to land.

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1 (f) Comment on how well the law of tort deals with the sort of 'neighbours from hell' incidents set out in the Problem. In your answer, consider alternative ways of dealing with these problems. **(Answer in continuous prose.)**

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## 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.

Burglary can be committed in several different ways, all under S.9 of the Theft Act 1968. The crime of aggravated burglary is governed by S.10 of the same Act.

Homicide offences fall into two different categories.

- Murder is the deliberate killing of another human being.
- Manslaughter can be either voluntary or involuntary.

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

- assault occasioning actual bodily harm
- wounding
- grievous bodily harm.

### The Problem

Freddie and Graham are next-door neighbours. They are constantly arguing over a number of matters, but in particular Freddie is convinced that Graham has been having an affair with Freddie's wife, Hazel. Freddie also thinks that Hazel has been buying expensive presents for Graham and that he will find them in Graham's house.

One evening when Graham was out, Freddie entered Graham's house through a rear window and started looking for the 'presents'. He took a cricket bat with him in case he was disturbed. Freddie soon found a gold chain which he assumed was a 'present' and which he decided to take in order to sell. He also found a Valentine's card addressed to Graham which, though it was not signed, Freddie believed to be in Hazel's handwriting. Freddie decided to keep the card. Freddie also took Graham's watch, which he found on the table in the garden, as he was leaving.

Furious at what he thought was evidence of Graham and Hazel's affair, Freddie decided to 'fix' the electrics on Graham's lawnmower so that it would become very dangerous to use. A week later, Ian, Graham's gardener, was using the lawnmower. He received a severe electric shock as a result of Freddie's actions and was killed. Graham was also badly burned when he tried to help Ian.

Later that day, Hazel found the Valentine's card, hidden in Freddie's wardrobe. Hazel guessed that Freddie suspected her of an affair and that he might be involved in the death next door. Furious, Hazel attacked Freddie with his cricket bat, causing a deep cut on the side of his head.

Both Freddie and Hazel have since been arrested, have appeared in court and have been sent for trial before judge and jury.



**2 (a)** In relation to the crime of burglary, outline what is meant by 'entry as a trespasser' **and** 'building or part of a building'.

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**2 (b)** Discuss Freddie's criminal liability for burglary both as he entered **and** as he left Graham's house.

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**2 (c)** Discuss Freddie's liability for the theft of Graham's watch.

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**2 (d)** Freddie is also likely to be charged with offences in relation to Ian’s death and Graham’s injuries.

**2 (d) (i)** Discuss the criminal liability of Freddie for the death of Ian.

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**2 (d) (ii)** Discuss whether or not Freddie could plead not guilty because he was not intending to harm Ian.

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**2 (d) (iii)** Discuss the criminal liability of Freddie for the injuries suffered by Graham.

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**2 (e)** Discuss Hazel's criminal liability for the injury suffered by Freddie.

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**2 (f)** Identify the **two** criminal courts before which Freddie and Hazel are likely to appear.

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**2 (g) (i)** Comment on whether borrowing something without permission should be a criminal offence. **(Answer in continuous prose.)**

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2 (g) (ii) Choose any **one** of the offences you have discussed in relation to the Problem.  
Comment on whether you think the law in relation to that offence is in need of reform.

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**Family Law**

**3** A valid will must be in writing, signed by the testator and properly witnessed by two competent witnesses. The testator must be over 18 years of age and of sound mind.

Even if the testator’s will meets the above requirements, it can still be challenged under the provisions of an Act passed in 1975, generally known as the Family Provision Rules. Challenges can be made by certain specified persons, generally close family, and/or those who are financially dependent.

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

**The Problem**

James made a will two years ago leaving £100 000 to his long-time secret lover, Karen, and the balance of his estate to an animal charity. He left nothing in his will for his wife, Liz, nor for his three children, Margaret, Nick and Oliver, now aged 28, 23 and 15 respectively. Nick left home when he was 18 to join a rock group and has not been in touch with his family since. James did not make any provision for his life-long friend, Paul, to whom he had promised a favourite painting. He also failed to leave anything to provide for his mother, Queenie, whom he had been supporting financially in a nursing home for the past five years.

James drafted his will on a ‘do-it-yourself’ wills form which he had bought. However, because of a lack of space, he signed it at the top of page two, having drafted his will on page one.

Having drafted his will, James asked his blind next-door neighbour, Rex, to sign as witness, which he did. James then went round to Paul’s house to ask him to be a witness as well. Paul, thinking he might be a beneficiary, refused to sign. James then went to see another friend, Scott, and both Scott and his daughter, Teresa, aged 14, signed as witnesses.

James recently died in suspicious circumstances and the police believe he may have committed suicide. His estate, on his death, is worth £400 000. James’s doctor has indicated that she had been treating James for depression for the last three years.

**3 (a) (i)** Discuss the validity of Rex and Teresa as witnesses to James’s will.

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**3 (a) (ii)** Briefly explain why, for legal reasons, Paul refused to sign as a witness to James's will.

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**3 (b)** Discuss the validity of James's will, taking into account the following issues:

- what the will was written on
- where the will was signed
- how the will was witnessed
- James's state of mind.

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**3 (c)** If James's will were to be declared invalid, he would have died intestate.  
Explain how James's estate would be distributed under the Intestacy Rules.

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**3 (d)** Comment on how well the Intestacy Rules would have dealt with James’s estate.  
**(Answer in continuous prose.)**

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**3 (e)** If James's will were to be declared valid, it would almost certainly be contested.

**3 (e) (i)** Name the Act of Parliament under which a will can be contested.

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**3 (e) (ii)** Identify **three** groups of people who are entitled to contest a will under this Act.

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**3 (e) (iii)** In this particular Problem, discuss who may choose to contest James's will and who may have the best chances of success.

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**3 (f)** Comment on how well the Family Provision Rules would have dealt with James's estate.

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## Rights and Responsibilities

- 4 The law sets out the duties that are owed by one person to another and also the rights that people have. Most of these rights are restricted in some way or another.

For example, when entering into a contract, the various rights and duties are agreed between the parties. Generally, one party makes an offer and the other accepts that offer. The law also distinguishes between an offer and an invitation to treat.

In consumer contracts, various extra rights are set out in the implied terms under the Sale of Goods Act 1979 (as amended) and the Supply of Goods and Services Act 1982 and also under the provisions of the Consumer Protection Act 1987. These Acts place both sellers and/or producers under various statutory duties to protect the rights of consumers. In employment law, the Health and Safety at Work Act 1974 is intended to protect the health and safety of employees and of the general public.

Many rights are contained within the Human Rights Act 1998. One of these rights is the right to a fair trial (irrespective of whether the hearing is before a court or tribunal). For example, all hearings must comply with the rules of natural justice.

### The Problem

Uma has just started a new job at Vengers supermarket. She works mainly as a shelf-filler, but is also being trained to work on the customer services counter. Vikram, the store manager, has assigned Winnie, a much more experienced employee, to look after and train Uma.

One day, Uma was working on the customer services counter while Winnie had gone for her break. Uma was approached by Yvette, a customer, who complained that the coffee she had bought was priced at £4.00 on the shelf, but that the assistant had tried to charge her £5.99 when she went through the checkout.

Another customer, Zac, rang up to say that his home delivery shopping had a number of problems and that he wished to complain. In particular:

- the oranges he had ordered were mostly rotten
- the four-slice toaster that he had ordered was in fact only two-slice, despite what it said on the box
- most of the wine glasses he had also ordered were smashed when the delivery man dropped his order on his doorstep.

Two days later, Uma received another phone call from Zac to say that the replacement toaster that Vengers had delivered had caught fire the first time he used it, causing considerable damage to his kitchen.

Later that week, Uma and Winnie were working in the dairy section. Uma noticed that a customer had dropped a yoghurt which had spilled on the floor. Winnie sent Uma to fetch a mop while she went to look for a safety barrier. When Uma returned, she found that Amy, a customer, had slipped on the yoghurt and broken her leg.

When Vikram found out what had happened, he blamed Winnie for having left the area and sacked her on the spot.





**4 (a)** Uma is not certain as to the relevant **contract** law that may apply to the sale of the coffee. Explain to Uma whether Yvette would be legally entitled to buy the coffee for £4.00.

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**4 (b) (i)** When Zac made his first phone call about his home delivery, Uma promised to ring him back. Advise Uma what to say based on the relevant Acts of Parliament on consumer law relating to:

- the rotten oranges
- the two-slice toaster
- the wine glasses.

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4 (b) (ii) Comment on how well consumers are protected by Acts of Parliament relating to the sale of goods and the supply of services. **(Answer in continuous prose.)**

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4 (c) Zac estimates that the damage to his kitchen as a result of the burnt-out toaster is likely to be in excess of £400. Advise Zac as to his legal rights against the manufacturer **and** against Vengers supermarket.

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**4 (d)** Explain how the Health and Safety at Work Act 1974 may apply to the situation involving the spilled yoghurt.

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**4 (e) (i)** Amy is considering taking legal action because of her broken leg. Explain why Vengers may be liable for the wrongful actions of its employees.

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**4 (e) (ii)** Comment on **why** employers are generally held responsible for the actions of their employees.

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**4 (f)** Winnie feels that she has been unfairly treated by Vikram and is considering claiming for unfair dismissal.

**4 (f) (i)** Name the body that would hear her case.

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**4 (f) (ii)** Outline the various rules that are in place to ensure that Winnie would have a fair hearing.

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**END OF QUESTIONS**



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