

Centre Number						Candidate Number				
Surname										
Other Names										
Candidate Signature										



General Certificate of Secondary Education
Specimen Paper

Law

Unit 2: Law in Action

Date: Time

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.
- Answer **all** parts of the questions you choose.
- Answer the questions in the spaces provided.
- Do all rough work in the answer 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 maximum mark for this paper is 90.
In questions 1(e)(i), 2(f), 3(f)(ii) and 4(b)(iii), you will be assessed on using good English, organising information clearly and using specialist vocabulary where appropriate. Answer these questions **in continuous prose**.
- The marks for questions are shown in brackets.

Advice

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

For Examiner's Use	
Examiner's Initials	
Question	Mark
1	
2	
3	
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8	
9	
10	
TOTAL	



Barcode

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 negligence is based upon the claimant being able to prove:

- that the defendant owed the claimant a duty of care
- that the defendant was in breach of that duty of care
- that the claimant suffered damage as a result of the breach.

Liability will result in an award of damages, which can be reduced if the claimant has contributed in some way towards his own loss.

Where a claimant is injured on property which is occupied by someone else, the claimant may be able to sue the occupier under the rules contained in the Occupiers' Liability Act 1957 or the Occupiers' Liability Act 1984.

In defending a claim for negligence, a defendant may be able to plead one of the general defences which would excuse him from liability. These defences include consent, inevitable accident, act of God and necessity.

The Problem

Gerwyn worked for Drive plc, a company which makes engines for the motor industry. He worked on the production line where there is a lot of heavy machinery. Signs all round the factory warned employees of the dangers and reminded them of their duties under the Health and Safety at Work Act 1974.

One lunchtime, Gerwyn and some of his workmates were playing football in the delivery yard. Employees had been told that no ball games were allowed on factory premises. Hal, a fellow employee, tackled Gerwyn as he was running with the ball. The tackle was mis-timed, and Gerwyn fell and broke his ankle.

Gerwyn was off work for two weeks and returned on crutches. He could not work normally and was given light duties to carry out in the storeroom. Gerwyn decided, against instructions, to limp down to the production line to see his workmates. Ivor, who was talking to another workmate, was in the middle of moving an engine block on chains and did not see Gerwyn until it was too late. As a result of his leg injury, Gerwyn was unable to get out of the way in time and the engine block hit him on the side of the head. Gerwyn suffered serious head injuries and is not likely to be able to work again.



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1 (a) In respect of the tort of negligence, explain what is meant by:

1 (a) (i) a duty of care;

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1 (a) (ii) a **breach** of a duty of care;

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1 (a) (iii) **damage** arising from the breach;

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1 (a) (iv) *res ipsa loquitur*.

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(15 marks)

Question 1 continues on the next page



Turn over ►

- 1 (c) Consider whether or not Drive plc could be sued by Gerwyn under the Occupiers' Liability Acts 1957 and/or 1984.

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(5 marks)

- 1 (d) If any of the above actions were successful, Gerwyn would be awarded damages. However, he has been advised that a judge may not award the full amount normally payable.

Explain why Gerwyn has been given this advice.

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(5 marks)

Question 1 continues on the next page



Turn over ►

1 (e) (i) Discuss whether it is fair that an injured claimant should have his damages reduced. **(Answer in continuous prose.)**

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(5 marks)

1 (e) (ii) Discuss whether the law should have a better way of compensating employees who are injured at work.

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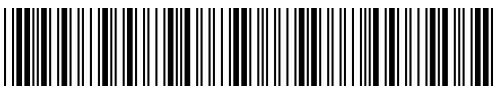
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(5 marks)



Criminal Law

2 There is a range of non-fatal offences against the person. They include:

- common assault (consisting of assault and battery) which is charged under the Criminal Justice Act 1988
- assault occasioning actual bodily harm under the Offences against the Person Act 1861
- grievous bodily harm and wounding, charged under two different sections of the 1861 Act.

Persons charged with such offences may be able to plead a number of possible defences, depending on the situation. These defences include mistake, self-defence, duress, automatism, insanity, intoxication and consent.

The Problem

Len, aged 28, has had a history of violence since he was involved in a car accident seven years ago. He needed a blood transfusion but was unfortunately given blood from an infected donor. Len has since been diagnosed as HIV positive and has been on tablets ever since. This has kept him, physically, reasonably healthy but has had the effect of producing alarming mood swings and periods of depression. Len makes his situation worse by often getting drunk and he is also heavily into illegal drugs.

Maggie, Len's ex-girlfriend, has just been diagnosed as HIV positive. She was not aware at the time that Len was HIV positive. As they had had unprotected sex, she is certain that Len must have infected her, and done so deliberately. When she confronted Len, who was drunk at the time, he became verbally aggressive and hit her, causing bruising and a split lip.

Maggie reported these incidents to the police who went round to Len's house to make an arrest. Len again became aggressive and attacked the two officers. DS Nixon suffered a fractured skull and PC Ogden was cut across the face when Len threw a glass at her.

Len was arrested and has since been charged with several offences.

Question 2 continues on the next page



Barcode

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2(a) (iii) Len's solicitor has suggested that Len may be able to plead the defence of consent in respect of Maggie contracting HIV.

Discuss whether or not the solicitor's advice is correct.

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(4 marks)

2 (b) Identify and discuss the charge(s) that Len could face if Maggie dies from an HIV-related illness.

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(6 marks)

Question 2 continues on the next page



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2 (c) Discuss what charges Len may face in respect of:

2 (c) (i) DS Nixon's fractured skull;

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2 (c) (ii) the injury to PC Ogden's face.

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6 marks)



Family Law

- 3 Legislation lays down basic requirements for entering into a valid marriage. These requirements include minimum ages, minimum number of witnesses and permitted times of marriage. In addition, one party must be male and the other female.

The law on divorce is based upon proof that the marriage has broken down irretrievably. This proof must be based on one of five 'facts'. In consequence, a court will eventually grant the petitioner a divorce and possibly also an order for maintenance and/or child maintenance, though generally a process of mediation must first be undertaken.

Recent legislation has made provision for the registration of same-sex relationships from which certain legal benefits flow.

The Problem

Trudy has recently started a job at the local Register Office and has only completed an initial training course. One day, because of an outbreak of flu, all the experienced staff are off sick and only Trudy and you, a work experience pupil from the local school, are in the office. However, Trudy knows that you are studying law and comes to you for advice about the following.

- Una, a local girl, and Vikram are in the reception area asking for a marriage licence. Vikram's passport indicates that he only entered the country two days ago.
- Warren and Yvette are also in reception asking for a marriage licence. Trudy is worried because Yvette looks very young and is wearing school uniform.
- Trudy has received a telephone call from Zoe asking about the law in relation to witnesses, permitted times of marriage and possible marriage venues. She has asked you to ring her back with the proper advice.
- At lunchtime, Trudy tells you that she and her husband, Andy, are having marital problems and that she needs some advice about a divorce. Trudy has a leaflet from the Citizens Advice Bureau, but clearly does not understand some of the terms in the leaflet.
- In the afternoon, two men, Bruno and Clive, come into reception saying that they want to "get married".

Question 3 continues on the next page



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- 3 (c) Describe the relevant law on marriage relating to witnesses, permitted times and legal venues that you will need to explain to Zoe when you return her call.

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(5 marks)

- 3 (d) In relation to the law on divorce, explain to Trudy the legal meaning of the following terms which she has read in her leaflet.

- 3 (d) (i) “Irretrievable breakdown” and how it can be proved;

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(4 marks)

Question 3 continues on the next page



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3 (d) (ii) “Decree nisi” and “decree absolute”;

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(4 marks)

3 (d) (iii) “Maintenance” and “child maintenance”;

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(4 marks)

3 (d) (iv) “Mediation”.

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(3 marks)



3 (e) (i) Identify the courts which can be used in divorce proceedings.

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3 (e) (ii) Comment on whether or not the law on divorce is suitable to meet the needs of a modern society.

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(5 marks)

Question 3 continues on the next page



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3 (f) (i) Outline the relevant law which applies to civil partnerships (the registration of same-sex relationships).

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(3 marks)

3 (f) (ii) Identify and comment on the **legal** benefits of registration. (**Answer in continuous prose.**)

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(5 marks)



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.

In consumer contracts, various extra rights are set out in the Sale of Goods Act 1979 (as amended), the Supply of Goods and Services Act 1982 and the Consumer Protection Act 1987. These Acts place sellers and producers under various duties to protect the rights of consumers.

In employment law, different Acts of Parliament are designed to protect the health and safety of employees and of the general public, and also to protect employees from various types of discrimination.

Many rights are contained within the Human Rights Act 1998. For example, ordinary citizens have a right to personal liberty, the right to a fair trial and also to enjoy freedom of communication (speech). However, these rights can be restricted to protect the interests of other citizens and/or the state.

Question 4 continues on the next page



The Problem

Joe has just started a course at Rutland University and is living away from home for the first time. Largely as a result of his inexperience, he has managed to run into some difficulties and has turned to you for advice because he knows that you have just started a law degree course at the same university.

- Joe went into the university bookshop to buy some books for his course. He was delighted to find that one of them had been wrongly priced on the shelf. Joe tried to buy it at the cheaper price, but the assistant refused to sell it to him. Joe is sure he should have been sold the book at the stated price.
- Joe went to the shop on the university campus to buy various items. When he got home, he found that:
 - the tea bags were Earl Grey and not Green Tea as described on the box
 - the coffee was well past its sell-by date and was unusable
 - the toaster he bought caught fire the third time he used it, causing £300 worth of damage.
- Joe used to work part-time for a supermarket. He claims that his boss, Caroline, never really liked him and was always looking for an excuse to tell him off. Joe believes that she was the same with all the male employees, but that she treated the female employees much more kindly. One day, Joe and Sally, another part-time employee, were in the staff rest room. They got together and wrote a note about Caroline and then pinned it on the staff notice board. The note accused Caroline of not liking men and implied that she was a lesbian. When Caroline saw the note, she was furious and she sacked Joe on the spot. However, she took no disciplinary action against Sally.



- 4 (a) Advise Joe whether he was legally entitled to buy the book at the lower price indicated on the shelf of the bookshop.

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Question 4 continues on the next page



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- 4 (b) (ii) If Joe sued the shop where he bought the above items, the case would almost certainly be heard through the small claims track.

Discuss the advantages of consumers being able to take legal action through small claims.

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- 4 (b) (iii) Discuss whether or not consumers are well protected by the range of consumer protection legislation identified in the introduction to the question. **(Answer in continuous prose.)**

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(5 marks)

Question 4 continues on the next page



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4 (c) Joe has asked you whether he may have been the victim of discrimination by Caroline.

4 (c) (i) Advise him whether this is correct.

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(4 marks)

4 (c) (ii) If it is correct, advise Joe where a case involving discrimination would be heard.

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(1 mark)



- 4 (d) (iii) Describe the various safeguards that are in place to ensure that both Joe and Caroline would have a fair trial.

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(5 marks)

END OF QUESTIONS



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