



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 13 – LAW OF TORT*

Time allowed: 3 hours plus 15 minutes reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read the question paper fully.** However, you may make notes on the question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. The question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Contract, Tort and Restitution 2012-2013, 23rd edition, Francis Rose, Oxford University Press 2012.**
- Candidates must comply with the CILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ball point pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

SECTION A
(Answer at least one question from this section)

1. There is no need to limit the duty of care in respect of psychiatric injury any criterion other than reasonable foreseeability.

Critically analyse this statement in the light of the tests used by the courts to determine whether a duty of care is owed to a claimant in respect of psychiatric damage.

(25 marks)

2. The courts have sometimes adopted a flexible approach to the issue of causation in negligence in order to do justice in the case.

Discuss this statement in the light of modern developments in the law of causation in fact in the tort of negligence.

(25 marks)

3. The law of tort is a totally inadequate mechanism for compensating victims.

Discuss this statement.

(25 marks)

4. (a) What tests are used by the courts to determine whether a person is vicariously liable for the torts of another?

(17 marks)

- (b) What justification is there for imposing liability on a person who is vicariously liable but not at fault?

(8 marks)

(Total: 25 marks)

SECTION B
(Answer at least one question from this section)

Question 1

Will and Vicky are both addicted to drugs and to alcohol. On Saturday they spent a whole afternoon drinking in their flat. That evening, they went on Will's motorcycle to a pharmacy, in order to steal drugs. Even though Vicky knew that Will was very drunk, she agreed to ride on the back of Will's motorcycle.

Whilst attempting to break into the rear of the pharmacy Will inadvertently triggered the burglar alarm. Will and Vicky jumped onto Will's motorcycle and rode away at high speed. Vicky, partly because she was drunk, and partly to enjoy better the speed of the motorcycle ride, did not put on her crash helmet.

On approaching a pedestrian crossing at high speed, Will failed to see the lights were red until it was too late. He swerved, striking Helen who was crossing the road at the time.

Vicky was thrown from the motorcycle. She struck the kerb head first and suffered serious head injuries as a consequence.

As a result of the collision, Helen, who was a famous classical guitarist, received serious injuries to her left hand and arm. After suffering months of pain, and when it became clear that she would never be able to play the guitar again, Helen killed herself.

- (a) Advise Vicky as to her prospects of succeeding in a tort action against Will.
(15 marks)
- (b) Advise Helen's husband, Edward, as to his prospects of succeeding in a tort action against Will, which he wishes to bring both on his own behalf and on behalf of Helen's estate.

(10 marks)
(Total: 25 marks)

Question 2

Peter, a political agent, had an argument with Helen, who is a Member of Parliament for Kempston. Peter dictated a speech onto a dictaphone, intending to make the speech at a constituency meeting. In this speech he said that, 'ignorance, vanity and corruption are all too common in politics today; the virtues of honesty and adherence to the law are rarely followed'.

Peter gave the tape to his secretary, James, to type up, but through an error James sent the tape to Helen. The parcel was opened by Helen's husband, Alfred, who played the tape. Helen is also a barrister.

Advise Helen on any possible action that she might have in defamation, any defences that she might be met with and what remedies she could apply for.

(25 marks)

Turn over

Question 3

An unidentified person entered the grounds of the Cosmetic Photography Co and dropped a burning cigar into a pile of leaves, which began to burn.

The managing director of the company noticed the smoke but took no steps to extinguish the fire, even though there were inflammable chemicals nearby on the premises. He now states that he took no action as the wind was blowing the smoke away from the chemicals.

The wind direction changed, the fire spread to the chemicals and there was an explosion.

A pedestrian on a nearby road was injured by the explosion. A customer's car in the company's yard was destroyed by the explosion. Prize ferrets on a nearby farm stopped breeding as a result of the noise of the explosion.

Advise the Cosmetic Photography Co as to its potential liability in tort.

(25 marks)

Question 4

Ali was invited to a party by Iqbal at Iqbal's flat. Christine, one of the guests, dressed up as a ghost and jumped out at Ali, who was of a nervous disposition. Ali lost consciousness and was carried into a spare bedroom by Dravid, another guest. Sometime later Iqbal saw that the bedroom door was open and, without looking inside, locked the door, as the room contained his priceless collection of country and western records. Dravid and Christine later went to see if Ali was all right but found the door locked. They asked Iqbal for the key, but he refused as he was busy tuning his banjo. One hour later he opened the door. Ali was still unconscious, but, as Iqbal poured cold water over him, he swung his fist in a reflex action and knocked some of Iqbal's teeth out.

What torts, if any, may have been committed and which defences do you consider to be relevant?

(25 marks)

End of Examination Paper