

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 2014

Law

41602

Unit 2 Law in Action

Monday 19 May 2014 9.00 am to 10.30 am

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(g), 2(f)(i), 3(d) and 4(d)(iv), 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 4 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 To win a negligence case, the claimant must be able to prove the following:

- 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.

The person who committed the tort is usually the one who is sued. However, if the person who committed the tort is an employee, their employer may well be responsible. This is known as vicarious liability. The employer will not generally be responsible for the torts of an independent contractor. If the claim succeeds, damages are awarded as compensation. However, damages can be reduced if the claimant has contributed to those losses.

A defendant who is sued in tort may be able to plead a general defence which, if successful, will mean that he will not be found liable. These general defences include consent, inevitable accident, necessity and Act of God.

The Problem

Almbridge Cricket Club (ACC) is on the edge of the village, and a public footpath runs along one side of ACC's grounds. You work as a solicitor in Almbridge and have been contacted by the Chairman of ACC about some recent problems.

- At a recent cricket match against local rivals, Brochester, two people were hit and injured by cricket balls. Clarrie, a spectator at the match, suffered a badly bruised arm. David, who was walking along the footpath, suffered a fractured cheekbone when the ball cleared the fence and hit him in the face. No-one at ACC can remember a cricket ball being hit quite so far before.
- At the same match, Emma made the sandwiches for the players' tea. Emma used some out-of-date ham, and some of the players, including Freddie, later suffered food poisoning.
- ACC employ George as a groundsman, looking after the pitch. He had taken his car round to the far side of the cricket ground to collect a bag of manure for his garden, when the village was struck by a violent and heavy rainstorm. He realised that his car may become stuck if the track leading back to the car park became muddy. He then tried to drive back to the car park. Because of the rain, he did not see Helen, who was running, without looking, towards the clubhouse. George ran into her, breaking her leg.
- As a result of the storm, a ditch on ACC land overflowed and flooded the house of Iftikar, a man who lives nearby.



1 (a) An action for negligence requires the claimant to prove that they were owed a duty of care by the defendant.

Explain how this can be proved.

[5 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....

1 (b) Discuss the advice you would give ACC if:

- Clarrie brings a claim in negligence for damages against ACC **and**
- David brings a claim in negligence for damages against ACC.

[8 marks]

.....

.....

.....

.....

.....

.....

Turn over ►



.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

1 (c) Freddie is also threatening to sue for negligence as a result of the food poisoning he suffered.

Briefly explain to ACC whether Freddie has a valid claim for negligence **and**, if so, whether it is ACC or Emma who is liable.

[6 marks]

.....

.....



.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....

1 (d) (i) Considering Helen’s claim for negligence, discuss whether George was in breach of a duty of care to Helen when he was driving his car back to the car park.

[4 marks]

.....

.....

.....

.....

.....

.....

Turn over ►



.....
.....

Extra space

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

1 (d) (ii) Considering Helen's claim for negligence, discuss the effect it may have on her claim that she was running, **without looking**, towards the clubhouse.

[4 marks]

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

Extra space

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



1 (d) (iii) Considering Helen’s claim for negligence **against ACC**, discuss the importance of the following facts:

- that George is an employee of ACC
- that George was at the club to collect a bag of manure for his own garden.

[4 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

1 (e) Discuss the advantages **and** disadvantages of the law relating to contributory negligence.

[5 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Turn over ►



.....
.....

Extra space

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

1 (f) Iftikar is considering suing ACC because of the damage to his house caused by the flood. However, he has been advised that ACC may have a defence to his claim.

Identify the defence that ACC may be able to plead **and** briefly discuss whether that defence is likely to succeed.

[4 marks]

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

Extra space

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



1 (g) Choose any **one** of the general defences in tort which include consent, inevitable accident, necessity and Act of God.

Briefly discuss why this defence exists **and** briefly comment on any criticisms of this defence. **(Answer in continuous prose.)**

[5 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....

45

Turn over for the next question

Turn over ▶



Criminal Law

- 2 For most criminal offences, the prosecution must be able to prove that the defendant committed the actus reus of the offence together with the relevant mens rea. The only exception to this is if the offence is one of strict liability.

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

- Assault and battery. These are two separate offences, governed by the Criminal Justice Act 1988.
- Assault occasioning actual bodily harm. This is an offence based upon an injury to the victim and is governed by the Offences Against the Person Act 1861.
- Grievous bodily harm and wounding. These offences exist in different forms and are also governed by the Offences Against the Person Act 1861.

The offence of burglary, which exists in several different forms, is governed by S.9(1)(a) and S.9(1)(b) Theft Act 1968.

A person charged with any of these criminal offences may be able to plead a general defence which, if successful, will lead to an acquittal. These defences include intoxication, self-defence, duress, insanity, and consent.

The Problem

Jason believed that his neighbour, Ken, had been having a relationship with Jason's girlfriend, Leanne. After drinking heavily in the local pub, Jason decided to go round to Ken's house and "beat him up". After closing time, Jason went to the back door of Ken's house, forced it open, and went upstairs to look for him.

Ken, who was half-asleep upstairs, heard noises from downstairs and grabbed a baseball bat which he always kept under the bed. When Jason entered Ken's bedroom, Ken swung the bat in Jason's direction, but missed. Jason reacted by punching Ken in the face, breaking his nose. Now very angry, Ken swung the baseball bat again, hitting Jason on the side of the head and fracturing his skull. Jason was in hospital for several weeks, and now has frequent headaches as a result of his injury. Ken was arrested on suspicion of a serious offence against the person.

Ken was later released by the police on bail and returned home. Maria and Nick, two friends of Jason, blamed Ken for Jason's injury and decided to take revenge for what Ken had done. Maria and Nick waited for Ken and jumped out as he was walking past. Maria pushed Ken, causing him to lose his balance. Nick hit Ken which caused a deep cut to the side of Ken's face. Nick had previously been diagnosed with a mental illness which makes him react aggressively. Both Maria and Nick have since been arrested for the attack.



2 (a) Briefly explain what is meant by the terms, 'actus reus', 'mens rea' and 'strict liability'.

[6 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....

.....

.....

.....

.....

Question 2 continues on the next page

Turn over ►



2 (b) (i) Discuss the criminal liability of Jason as he entered Ken's house.

[4 marks]

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

2 (b) (ii) Discuss the criminal liability of Jason as a result of him hitting Ken and breaking his nose. Include in your answer any defence that Jason may be able to plead.

[6 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....



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

Extra space

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

2 (c) (i) Identify and briefly explain the offence Ken may have committed as a result of each of the two actions described below. Ignore any possible defence in your answer.

[6 marks]

- When Ken swings the baseball bat at Jason.

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

- When Ken fractures Jason's skull.

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

Turn over ►



2 (c) (ii) Ken has been advised that he may be able to plead a defence if charged with offences committed against Jason.

Consider whether he has been well advised **and** whether the defence may succeed.

[4 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

2 (d) Briefly discuss the criminal liability of Maria for pushing Ken.

[3 marks]

.....

.....

.....

.....

.....

.....



2 (e) Discuss the criminal liability of Nick for the injury suffered by Ken. Include in your answer any relevant defence he may be able to plead.

[6 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....

.....

.....

.....

.....

Question 2 continues on the next page

Turn over ►



2 (f) (i) Comment on whether the law relating to non-fatal offences is in need of reform.
(Answer in continuous prose.)

[5 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....



2 (f) (ii) According to the old saying, “An Englishman’s home is his castle”.

Discuss how well the law allows householders to defend their homes against intruders.

[5 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....

45

Turn over for the next question

Turn over ►



Family Law

3 Legislation (Acts of Parliament) controls both the making of a will and the distribution of an estate when the deceased dies without leaving a valid will. The legislation requires that certain basic requirements must be met for making a will, although these requirements can be relaxed under the provisions of the Wills (Soldiers and Sailors) Act 1918.

A will can be revoked in a number of ways, including the writing of a new will and by marriage (or civil partnership). Divorce is also likely to affect the rights of the ex-spouse.

A will can be contested under the provisions of the Inheritance (Provision for Family and Dependants) Act 1975.

The Problem

Oliver and Poppy were married for 32 years and had three children, Rose (aged 28), Saffron (aged 25) and Tulip (aged 16). Rose lived with her civil partner, Violet, in a relationship which was registered in 2008. They had no children. Saffron married and had two young children, and Tulip still lives at home.

Oliver was in the army for many years. He made an informal will 34 years ago, when he was sent on active service to Northern Ireland. That will left his entire estate to Willow, his fiancée at that time. Two years later, Oliver split up from Willow and married Poppy. Three months before their marriage, Oliver and Poppy both made wills leaving their entire estates to each other. Five years ago, Oliver and Willow met by accident and resumed their relationship. Poppy did not know about this. Oliver had been financially supporting Willow for the last five years by paying the rent on a flat for her to live in.

Four months ago, the family had a large win on the National Lottery. The family were celebrating at a local nightclub when a fire swept through the premises. Rose and Saffron were both killed. Neither had left a valid will. Two weeks ago, Oliver was visiting Willow at her flat when he collapsed and died of a heart attack.

On their deaths, Oliver's estate was worth £650 000, Rose's estate was worth £500 000 and Saffron's estate was worth £450 000. Rose and Saffron had never made a will.

3 (a) (i) Briefly explain **three** basic requirements of a valid will.

[5 marks]

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



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

Extra space

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

3 (a) (ii) Discuss why the requirements you explained in question 3(a)(i) would **not** have applied to Oliver’s informal will made 34 years ago.

[4 marks]

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

Extra space

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

Turn over ►



3 (b) (i) Under normal circumstances, outline the legal effect on a will of the following actions:

- marriage (or entering into a civil partnership)
- divorce
- destruction of a will.

[5 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....

3 (b) (ii) Briefly discuss the following:

- the legal effect on Oliver’s informal will, when he made a new will two years later
- the legal effect of Oliver’s marriage to Poppy on the will he made three months before they got married.

[5 marks]

.....

.....

.....

.....



.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

3 (b) (iii) Both Poppy and Willow may feel they have rights in respect of Oliver’s estate.

Discuss how the law may distribute Oliver’s estate.

[6 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Turn over ►



Extra space

.....

.....

.....

.....

.....

3 (b) (iv) Comment on how well the law might deal with Oliver's estate.

[5 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....



3 (c) Both Rose and Saffron have died intestate.

3 (c) (i) Explain how the law will deal with the distribution of Rose's estate.

[4 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

3 (c) (ii) Explain how the law will deal with the distribution of Saffron's estate.

[6 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Turn over ►



.....
.....

Extra space

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

3 (d) Comment on the **advantages** of making a will as opposed to dying intestate.
(Answer in continuous prose.)

[5 marks]

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

Extra space

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



Rights and Responsibilities

- 4 When entering into a contract, the terms are agreed by the parties. In consumer contracts, 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. These Acts, together with the Consumer Protection Act 1987, place both sellers and/or producers under various statutory duties to protect the rights of consumers.

The welfare of both employees and the general public is protected by the provisions of the Health and Safety at Work Act 1974.

Under the principle of vicarious liability, employers will usually take legal responsibility for the actions of their employees. This principle will therefore protect other people who suffer damage or injury as a result of the actions of a negligent employee.

The Problem

Avonside District Council (ADC) owns and operates a large leisure centre. You work for ADC in the legal department. In the last month, you have been asked to deal with a number of legal problems which have occurred at the leisure centre.

- You receive an email from Ben, the manager of the leisure centre shop. The shop sells sporting goods, and also has a cafe attached. Ben's email describes a number of legal issues which have arisen in the shop.
 - 1 Chantelle, a customer, purchased, on Ben's recommendation, a new swimsuit which was described as being "shrink resistant". Two weeks later, she returned the item to the shop as it had shrunk significantly.
 - 2 Another customer, Donna, complained that a water bottle was priced at £5.99 on the shelf, but that she was charged £7.99 at the till. Donna insisted that she should have been sold it at the cheaper price.
 - 3 Elliot bought a cake and a coffee from the cafe. He then complained that the cake was stale, the coffee was sold in a cracked cup and that the assistant spilt most of it in the saucer.
- ADC received a letter from Faye, who used the gym regularly. She had been using a new piece of equipment, which had just been delivered from Gymfit Supplies (GFS), the manufacturers. A key component in the equipment broke. As a result of this, Faye fell, smashing her expensive watch and injuring her leg. Faye wants to claim compensation.
- Henrick is employed as a poolside attendant with particular responsibility for safety in the pool. Last week, Henrick left the poolside to go for a break without getting a replacement attendant. While he was away, Imelda, a child, nearly drowned and had to be rushed to hospital.

Turn over ►



4 (a) Outline what is meant by the terms **offer** and **acceptance** in contract law.

[5 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

.....

.....

.....

.....

.....

.....

4 (b) Explain to Ben the relevant consumer protection law that will apply to the following:

4 (b) (i) Chantelle’s shrunk swimsuit.

[4 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....



Extra space

.....

.....

.....

4 (b) (ii) Donna’s wrongly priced water bottle.

[4 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

4 (b) (iii) Elliot’s stale cake **and** poor service in the cafe.

[5 marks]

.....

.....

.....

.....

.....

.....

Turn over ►



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

Extra space

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

4 (b) (iv) Any claim arising out of these problems in the shop would almost certainly be heard in the County Court, using the Small Claims Track.

Discuss the advantages **and** disadvantages of using the Small Claims Track.

[5 marks]

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

Extra space

.....
.....



.....
.....

4 (c) Outline the key provisions of the Consumer Protection Act 1987 **and** explain how that Act may apply to the damage and injury suffered by Faye.

[6 marks]

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

Extra space

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

Turn over ►



4 (d) There may be a number of legal implications relating to the incident involving Henrick and Imelda.

4 (d) (i) Outline the health and safety implications of this incident.

[4 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

4 (d) (ii) Henrick was sacked immediately by the leisure centre manager. Henrick has indicated that he may bring a case for unfair dismissal.

Briefly explain where **and** how such a case would be heard.

[3 marks]

.....

.....

.....

.....

.....

.....



4 (d) (iii) Any claim for compensation brought by or on behalf of Imelda is likely to be brought against ADC. This principle is known as vicarious liability.

Briefly explain how this principle may operate in this case.

[4 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Extra space

.....

.....

.....

4 (d) (iv) Comment on the **advantages** of vicarious liability for a claimant who has suffered loss. **(Answer in continuous prose.)**

[5 marks]

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Turn over ▶



Extra space

.....

.....

.....

.....

45

END OF QUESTIONS

