



Oxford Cambridge and RSA

Tuesday 6 June 2023 – Afternoon

A Level Law

H418/02 Law making and the law of tort

Time allowed: 2 hours



You must have:

- the OCR 12-page Answer Booklet

INSTRUCTIONS

- Use black ink.
- Write your answers to each question in the Answer Booklet. The question numbers must be clearly shown.
- Fill in the boxes on the front of the Answer Booklet.
- Answer **five** questions in total:
Answer **one** question from Question 1 and 2 and **one** question from Question 3 and 4 in Section A.
Choose **one** Part in Section B. Answer the **three** questions for that part.

INFORMATION

- The total mark for this paper is **80**.
- The marks for each question are shown in brackets [].
- Quality of extended response will be assessed in those questions marked with an asterisk (*).
- This document consists of **4** pages.

ADVICE

- Read each question carefully before you start your answer.

SECTION A

Law making

Answer Question 1 **or** Question 2. Then answer Question 3 **or** Question 4.

Answer Question 1 **or** Question 2.

- 1 Describe the literal rule of statutory interpretation. Give case examples to illustrate its use. [8]
- 2 Describe Treaties, Regulations and Directives as sources of EU Law. [8]

Answer Question 3 **or** Question 4.

- 3 Discuss the disadvantages of the literal rule of statutory interpretation. [12]
- 4 Discuss the reasons that make the use of delegated legislation beneficial. [12]

SECTION B**Law of tort**

Choose **Part 1** or **Part 2**.

Part 1

Answer the **three** questions.

The first two questions are about the scenarios. The scenarios are **not** related.

Amir and Ben live next-door to each other. Amir has been collecting used cooking oil from local chip shops. He now has hundreds of 20-litre containers in his back garden which he plans to recycle and sell. Amir is running out of room and has stacked the latest containers too high. This places too much weight on the bottom containers which split open and leak. The oil runs into Ben's garden and destroys his prize-winning rose bushes. Ben also slips over on the oily surface and breaks his ankle.

Darcie is a qualified swimming instructor. She is in charge of a group of elderly clients who are taking a 'Water Aerobics for Senior Fitness' class. Some members of the group, like Emma, are vulnerable and have low levels of fitness. Darcie usually assists Emma in and out of the pool. Darcie is running late one day and is keen not to miss her last bus home. Towards the end of the session, she tells the class to do some cool down exercises and leave the pool when they finish. Darcie rushes off to catch the bus, leaving the class unattended in the pool. Emma struggles with the steps out of the pool, she loses her grip, falls over and suffers serious head injuries.

- 5 Advise Ben whether he will be successful if he sues Amir in an action under *Rylands v Fletcher*. Do **not** consider any defences or remedies. [20]
- 6 Advise Emma whether she will be successful if she sues Darcie in negligence. It is established that Darcie owes Emma a duty of care. Do **not** consider any defences or remedies. [20]

Essay question on the law of tort

- 7* Discuss whether vicarious liability is unfair on employers. [20]

Part 2

Answer the **three** questions.

The first two questions are about the scenarios. The scenarios are **not** related.

Henry owns a farm which includes a large area of woodland. He is aware that the woods are regularly used by rare birds as a nesting site. Henry knows that a number of people have recently trespassed into the woods and climbed trees to steal the valuable birds' eggs because they have posted their activities on social media. He makes routine patrols but cannot fence off the entire woods or prevent every tree from being climbed. Felix is a 34-year-old bird egg collector. One night, he ignores a 'Private Land' sign, enters the woods and starts to climb a very tall tree to reach a nest. Because it is dark, he slips, falls to the ground, and sustains serious injuries.

Jamila and Ivan both own neighbouring houses on a quiet residential housing estate. Ivan has recently started a new hobby making metal and plastic jewellery. He uses a furnace which he has installed in the room in his back garden. At the end of each evening, he puts any metal or plastic waste materials in the furnace and leaves them to burn off overnight. This creates smoke and noxious fumes which travel directly across Jamila's property. Jamila cannot sleep because of the smell. She also keeps rare fish in an outdoor pond and several of them have died.

- 8 Advise Henry whether he will owe Felix a duty under the Occupiers' Liability Act 1984. Do **not** consider Henry's status as an occupier or Felix's status as a trespasser as these are not disputed. Do **not** consider any defences or remedies. [20]
- 9 Advise Jamila whether the interference she is suffering is sufficiently unreasonable to constitute a private nuisance. Do **not** consider any defences or remedies. [20]

Essay question on the law of tort

- 10* Discuss whether vicarious liability is unfair on employers. [20]

END OF QUESTION PAPER

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