



Oxford Cambridge and RSA

Thursday 13 June 2019 – Morning

A Level Law

H415/02 Law making and the law of tort

Time allowed: 2 hours



You must have:

- the OCR 12-page Answer Booklet (OCR12 sent with general stationery)

INSTRUCTIONS

- Use black ink.
- Answer **five** questions in total:
Section A: answer **one** from questions **1–2** and **one** from questions **3–4**
Section B: choose Part 1 **or** Part 2 and answer the **three** questions below.
- Write your answers in the Answer Booklet. The question number(s) must be clearly shown.

INFORMATION

- The total mark for this paper is **100**.
- 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.

SECTION A

Law making

Answer **two** questions (**one** from questions **1–2** and **one** from questions **3–4**)

Answer **one** question from questions **1–2**

1 Explain overruling and distinguishing. [10]

2 Explain the Golden Rule of statutory interpretation. [10]

Answer **one** question from questions **3–4**

3 Discuss the advantages of binding precedent. [15]

4 Discuss the advantages of the Golden Rule of statutory interpretation. [15]

SECTION B**Law of tort**Choose **Part 1** or **Part 2****Part 1**Answer the **three** questions below

The first two questions are based on the scenarios below. The scenarios are not related.

Alice runs a small business from home. She has adapted a garden shed into a workshop where she makes tie-dye T-shirts to sell at summer music festivals. The dyes are kept in large plastic vats. Alice does not know that one of the vats is worn out and is slowly leaking. Dye is soaking down through the shed floor to the ground underneath and has spread to the neighbouring property. Bob lives next door to Alice and grows prize winning marrows which have all been ruined by the dye.

Charlie has recently bought a camera drone as he wants to start a business taking aerial photographs. On one of his first assignments Charlie is flying his drone over a large housing estate when his mobile phone rings. Charlie knows he should not answer while he is flying the drone but he is worried he might miss out on a new job so he tries to fly the drone with one hand and answer his phone with the other. He loses control of the drone which flies into a power cable causing a power cut. The power company, Elektrix, now wish to sue Charlie. They have been advised that this is a novel case for which the courts have no existing precedent.

- 5 Advise whether Bob would be successful in an action in *Rylands v Fletcher* against Alice. [25]
- 6 Advise whether Elektrix would be successful in an action in negligence against Charlie. [25]

Essay question on the law of tort

- 7* Discuss the extent to which vicarious liability is effective in achieving the aims of fairness, deterrence and apportionment of blame. [25]

Part 2

Answer the **three** questions below.

The first two questions are based on the scenarios below. The scenarios are not related.

During an especially cold winter in Newtown village the local lake froze over. This had happened in previous years and there had been a number of accidents. Consequently, Newtown Council had erected signs stating 'Access to the Lake Strictly Prohibited – No Skating Allowed – Extreme Danger When Frozen'. Davina had been given a new pair of ice skates at Christmas as she has been training to skate for the County Skating Championships. Davina ignores the signs and starts skating on the frozen lake. A thin patch of ice breaks, Davina falls through the hole and she suffers serious injuries as a result of hypothermia.

During the summer months the lake is used by Newtown Jet Ski Club who have been holding weekend competitions there for the last fifteen years. They had planning permission from Newtown Council for these events. Last year Erica purchased a lovely old house about half a mile from the lake. She was aware of the activities of the Jet Ski Club when she moved in but recently the club has added mid-week speedboat racing and Erica cannot stand the constant noise.

- 8 Advise whether Davina would be successful in an action against Newtown Council in occupier's liability. [25]
- 9 Advise whether Erica would be successful in an action against Newtown Jet Ski Club in private nuisance. [25]

Essay question on the law of tort

- 10* Discuss the extent to which vicarious liability is effective in achieving the aims of fairness, deterrence and apportionment of blame. [25]

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