



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 13 – Law of Tort

Question paper

January 2023

Time allowed: 3 hours and 15 minutes (includes 15 minutes' reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- You can use your own unmarked copy of the following designated statute book – ***Blackstone's Statutes on Contract, Tort & Restitution, 33rd edition, Francis Rose, Oxford University Press, 2022.***
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

SECTION A

Answer at least one question from this section

1. The law of tort is designed to compensate for harm suffered to an individual's personal, property and economic interests. Critically discuss how this body of law achieves the protection of these interests.

(25 marks)

2. Critically analyse the extent to which the tort of nuisance imposes strict liability on defendants.

(25 marks)

3. Critically assess how far the law of tort achieves the aim of restoring claimants to the position they would have been in had a tort not been committed when assessing compensatory damages.

(25 marks)

4. (a) Discuss the development of liability for pure economic loss.

(15 marks)

(b) Critically evaluate the approach of the courts when determining liability for pure economic loss.

(10 marks)

(Total: 25 marks)

SECTION B

Answer at least one question from this section

Question 1

Anne bought a large house that required extensive refurbishment.

Ben, a local builder, was recommended to Anne by her neighbour, Colin, who had had similar work done. Anne visited Colin to view the work the builders had completed. Colin told Anne that there had been a 'few problems' but that they had been 'expected due to the amount of work and easily resolved.' Feeling reassured that she had obtained reasonably clear information, Anne hired Ben.

However, after only a couple of days on-site at Anne's property, Daniel, an electrician working as a subcontractor for Ben, sustained serious burns due to not turning the power off before he began to replace the wiring for the new kitchen. Daniel had to be taken to hospital, but Ben was the only other person on-site, as Anne was at work. They left in a hurry, but Ben failed to lock the door in his haste to get Daniel to hospital.

Later that day, Colin decided to visit Anne to see how the work was coming along. Seeing the door open and believing Anne would not mind. Colin took a few steps inside the property, calling out to Anne. He did not notice wires that had been left strewn across the entrance hall and tripped over. He suffered a sprained wrist and the screen on his mobile phone was broken.

The following evening, unable to cook dinner at home due to the building works, Anne and her 12-year-old son George decided to eat at a local restaurant. During the meal, George, left the table to go to the toilet. On the way he did not see a spilled drink on the floor due to the restaurant's dim lighting. There were no warning signs and George slipped over, suffering bruises to his shoulders and legs. Another diner told Anne he had seen a waitress spill the drink about an hour previously.

Advise Anne in respect of:

(a) claims against Anne in relation to the incidents on her property

(15 marks)

(b) a claim against the restaurant by Anne for the injury to her son.

(10 marks)

(Total: 25 marks)

Turn over

Question 2

Kempston Council (KC) holds an annual BBQ for the residents of a local village. Multiple attractions are always included, such as bouncy castles for the children and a firework display at the end of the evening.

During the firework display, equipment that had not been wired correctly by KC employees caused an explosion. Nearby boxes of fireworks were ignited, increasing the intensity of the explosion.

An ignited firework flew directly at Hannah, a member of the crowd standing in front of the fireworks storage area and set Hannah's clothing on fire.

Hannah's 21-year-old daughter Iris was returning to the area after buying them both drinks at a nearby stand. Whilst not in any immediate danger herself, due to the seriousness of the event, she went into shock and could do nothing but watch helplessly as her mother caught fire and struggled against the flames. Iris now claims she is unable to resume her university studies as she suffers from chronic panic attacks. Iris had been given up at birth for adoption and had only just regained contact with Hannah, who is her birth mother.

Jon was standing near an exit but when he saw Hannah catch fire, he ran over to her, threw her to the ground and smothered the flames with his coat as he rolled her over. Whilst Jon suffered no physical injuries, he began to suffer traumatic nightmares and was diagnosed with PTSD.

Hannah's husband, Kevin, was telephoned by Iris and informed of what had happened. Kevin met Iris at the hospital and witnessed the injuries to his wife as she was removed from the ambulance. Hannah's burns were still visible as the paramedics had not had time to start any treatment. Hannah was taken into a treatment room in the Accident and Emergency Department whilst her family were told to wait outside. Shortly after, the doctors emerged and informed Kevin and Iris that Hannah had passed away and the family were led to the mortuary to view her body. Kevin was unable to leave home for many months due to grief and sadness.

Advise Kempston Council as to its potential liability to Iris, Jon and Kevin.

(25 marks)

Question 3

Lee owns a coffee shop. He employs five members of staff on a permanent basis but also uses agency workers during busy periods. He also has delivery drivers on zero hours contracts.

Mervyn, an employee, was extremely busy one day and as he tried to make his way through the crowd to bring a customer a cup of tea, he bumped into Neil, who was standing in the queue, spilling the hot tea over him.

Olivia was one of Lee's agency workers. Lee told Olivia that, no matter how busy the coffee shop became, it was against health and safety rules to carry more than a single tray full of tableware at a time. Olivia wanted to impress Lee with her work rate, so ignored the rules and carried twice as much as she should have. The items on the trays fell from Olivia's grasp, causing Paul, a customer, to suffer cuts to his face.

Richard worked for Lee on a zero hours contract as a driver for the coffee shop's delivery service. Richard used a vehicle supplied by Lee, wore a coffee shop branded uniform and would make deliveries according to instructions given to him by Lee. Whilst on a series of deliveries, Richard agreed to collect his daughter from school as his wife called to say she had been delayed in traffic. Outside the school, Richard, in a hurry to return to his deliveries, misjudged a manoeuvre and was seen causing damage to another parent's car (Steven) that was parked outside of the school.

After dropping his daughter at home, Richard made his next delivery at a local office complex. As he returned to the van, he saw Victor, whom he believed to be a thief, at the back of the van. He ran towards Victor, who was actually only looking around and under the van for keys he had dropped. Richard grabbed Victor by both arms and began shaking him. Victor thought he was being mugged and began struggling. Richard believed Victor was attempting to escape before the police could be called and punched Victor in the face, breaking his nose.

Outline the possible claims against Lee for the incidents involving his staff.

(25 marks)

Turn over

Question 4

A DNA testing laboratory, Unique Laboratories (UL), was awarded a government contract to produce testing equipment during the recent pandemic. The directors of UL were notified on multiple occasions by William, one of their senior lab technicians, that heads of department were 'cutting corners' to meet quotas. Rather than being concerned for the quality of its products and services, UL dismissed William. Dismayed at the management's reaction and lack of concern for the public, William stole files from UL's offices that contained proof of his concerns.

William, using a fake profile, posted his claims on a website notorious amongst the scientific community: his claims were soon seen by people all around the world. UL's managers saw the post and notified the website operator and the Internet Service Provider (ISP) that the claims were false and were therefore defamatory. However, the website took 10 days to take the required action and the ISP claimed the defence of innocent dissemination.

UL claims that, due to these accusations, the company lost its government contract and has suffered serious financial harm.

Another employee, Zack, had always suspected that William's claims were true, and that the Chairman of UL, Yannis, was directly involved in order to profit personally. Zack was discussing this with his local shopkeeper and was overheard by Andrew, a reporter who works for Bold News. The shopkeeper stated that he did not believe Zack as Yannis was always on the TV in relation to many different charities that he supported and was well-liked, but Andrew decided to investigate the claims.

Bold News contacted Yannis notifying him that they intended to publish the story about UL and Yannis personally and wanted to know if he would agree to an interview. Yannis refused to comment and declared he would seek an injunction if they went ahead with their 'story'. However, the editor believed it was in the public interest to publish information about the company's shortcomings and the alleged criminal conduct of its chairman and planned to use the headline "Chairman Tested in Cash for Trash."

The social media coverage resulted in MPs debating the issue in Parliament. Clive, the MP for Kempston, accused the company of abusing the procurement process for profit and claimed their "criminal Chairman needed to be prosecuted for misleading the public for cash." Clive was booked for a live TV interview later that evening and, during that interview, in an unprompted statement, Clive repeated the claims he had made in Parliament. This took place during the discussion of a different topic.

Following the interview, Yannis was notified by several of the charities he worked with that his involvement was no longer required and he was shunned and avoided by many of his associates.

(a) Outline the potential claims in defamation that Unique Laboratories may have. **(10 marks)**

(b) Outline the potential claims in defamation that Yannis may have. **(15 marks)**

(Total: 25 marks)

End of the examination