



**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**

**June 2022**

**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 2021-2022, 32nd edition, Francis Rose, Oxford University Press, 2021.***
- 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 about remoteness of damages.....is in a strangely unsettled state."  
Sir Robin Cooke, 1978

Critically discuss the reasoning behind the changes to, and expansion of, the rules relating to the remoteness of damages.

**(25 marks)**

2. Critically assess whether the law of tort achieves the required protection of an individual's interests in a modern society.

**(25 marks)**

3. (a) Outline the requirements for the defences of contributory negligence, consent and illegality.

**(10 marks)**

- (b) Critically discuss the courts' ability to provide a balanced approach in relation to the defences of contributory negligence, consent and illegality.

**(15 marks)**

**(Total: 25 marks)**

4. Critically analyse how the courts justify the boundaries imposed on claims for psychiatric harm.

**(25 marks)**

## SECTION B

Answer at least one question from this section.

### Question 1

The police received an anonymous tip-off that a man was selling drugs in a side street in the town centre. Two officers were despatched to investigate. As they approached the suspect, they recognised him. Andrew was known to the police for not only drug offences but was well-known for violently resisting arrest.

Andrew saw the officers approach and began to run away through the town centre. It was the middle of the afternoon and so the streets were very busy with shoppers, but the officers decided to chase Andrew through the crowds.

After a couple of minutes, they caught up with Andrew and a struggle ensued as Andrew attempted to avoid being arrested. Those nearby tried to get out of the way, but in the struggle, Andrew fell against a passer-by, Belinda, causing her to fall to the ground. Belinda sustained a serious back injury.

While the police officers continued to attempt to arrest Andrew, another shopper called 999 for an ambulance. However, the service was extremely busy, and it was quite a long time before they arrived at the scene. Medical reports stated that the injuries sustained by Belinda, and the length of time her recovery would take, were increased due to the delay in receiving medical attention.

As the officers continued to try and arrest Andrew, the three of them fell against a local food vendor, Chris's cart. Oil stored on the cart spilled onto where food was being cooked and the cart caught alight. The owner of the cart called 999 for a fire engine but the call handler's instructions to the fire crew were misunderstood and they went to the wrong location. Due to the delay in the arrival of the fire service, the fire greatly intensified and there was much more damaged caused than initially would have occurred.

- (a) Advise Belinda whether she could have a successful claim against the police or the ambulance service for her injuries

**(15 marks)**

- (b) Advise Chris whether he could have a successful claim against the fire service for the damage to his property

**(10 marks)**

**(Total: 25 marks)**

**Turn over**

## Question 2

Diya and John owned a large estate in Suffolk. Every couple of months they threw lavish events with a charitable purpose. Attendance at the events was always by invitation only.

At their most recent event, an invited guest, Gary, was having a look around areas of the estate open to guests during events. Gary entered the gallery with many paintings on the wall with lighting above each of them. The electrics had recently been renovated by HiWire Electrics so the paintings could be exhibited with modern lighting, but some of the wiring had not been secured against the wall. Gary tripped over as he entered, causing him to fall to the floor, sustaining a serious hip injury.

Fiona, a friend of Diya and John's daughter Heather, received a text from Heather saying that the event was a lot of fun and that she "should pop in." Fiona arrived at the estate and while she was wandering around, looking for Heather, she slipped over a spilled drink. She suffered a twisted ankle and had to take time off from her job as a waitress.

Kulvant was an invited guest and had attended several events in the past. Kulvant had often wondered about a particular room of the house that was marked 'Private - no entry to guests.' On this occasion, as there was no one around, Kulvant's curiosity got the better of her and on finding the door unlocked, Kulvant entered the room. Immediately on entering, what was in fact a storeroom, a pile of boxes and books fell onto Kulvant's head, knocking her to the ground. Luckily Kulvant did not sustain any personal injuries, but her phone was broken in the fall.

Advise Diya and John as to whether they may be potentially liable under occupiers' liability for the incidents involving Gary, Fiona and Kulvant.

**(25 marks)**

### Question 3

Leroy, Max and Neil all worked at a local nightclub called Strobz. Leroy worked there as bar staff on a zero-hour contract. He would be called in for shifts as and when they were available. He was responsible for paying his own tax and National Insurance, but, when at work, Leroy had to wear a uniform and was under the complete control of the club owners throughout the shift.

Leroy had been warned many times by the club owners to not serve cocktails extravagantly to 'entertain' the crowd. Whenever he did this, drinks were spilled and the area behind the bar became very precarious for the other members of staff. Despite these warnings, Leroy enjoyed the hype it created for customers and continued to make cocktails in this way. However, another employee, Penny, slipped on the wet floor in the area Leroy was 'splashing around with cocktails', spraining her ankle, leaving her unable to work for three weeks.

Max was employed as a bouncer by Strobz. When he was on duty, one of his neighbours, Owen, came into the club. Max was having issues with Owen where they lived as Owen was an extremely noisy neighbour. Max waited to have his break until he saw Owen go to the toilets. Max followed Owen into the toilets and immediately punched him in the face, shouting "You better keep that noise down when I get home from here – I need my sleep!" Owen ran back outside into the dance area screaming that he had been assaulted by a member of staff.

Neil was employed as a DJ at Strobz every Friday night. The DJ area and equipment was carefully constructed by technical engineers and Neil had been warned that the lighting was at its maximum capacity. However, Neil wanted more strobe lighting for his set and brought his own. During his time on the decks one Friday night, the lighting overheated and caught fire. The club had to be entirely evacuated while the flames were extinguished. Some of the customers suffered from smoke inhalation.

Advise Strobz as to its potential liability for any of the above incidents involving Leroy, Max and Neil.

**(25 marks)**

**Turn over**

#### **Question 4**

Quentin and Raymond own two neighbouring houses. Quentin and Raymond are in a dispute regarding the boundary lines of their driveway areas. Quentin owns a large vehicle and often takes up space on Raymond's 'side of the drive.' Despite Raymond expressing his frustration at not being able to use his own drive, Quentin continues to block Raymond's access and, in fact, has begun to deliberately park directly across the middle of both drives.

Quentin wants to build a patio in a part of his garden that borders another neighbour, Terry. Terry agrees that Quentin can temporarily take down one of the fence panels to access the area. Quentin takes down the panel but walks on one of Terry's flower beds to work on the patio. To move around more easily, Quentin digs up plants from the flower bed and puts them into his own garden, intending to replant them in Terry's garden when the building work was completed.

When Terry sees this, he is furious and starts threatening Quentin from his garden. Quentin is scared and calls the police. Steve, a police officer, goes into Terry's garden to arrest him.

Advise as to whether any claims can be brought against Quentin and Steve in the tort of trespass to land.

**(25 marks)**

**End of the examination**

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