

CAMBRIDGE INTERNATIONAL EXAMINATIONS
Joint Examination for the Higher School Certificate
and General Certificate of Education Advanced Level

LAW
PAPER 2 Legal Liabilities

9084/2

OCTOBER/NOVEMBER SESSION 2002

3 hours

Additional materials:
Answer paper

TIME 3 hours

INSTRUCTIONS TO CANDIDATES

Write your name, Centre number and candidate number in the spaces provided on the answer paper/answer booklet.

Answer **three** questions.

Answer **one** question from Section A, **one** question from Section B and **one** question from Section C.

Write your answers on the separate answer paper provided.

If you use more than one sheet of paper, fasten the sheets together.

INFORMATION FOR CANDIDATES

All questions in this paper carry equal marks. The number of marks is given in brackets [] at the end of each question or part question.

The scenarios described in these questions are entirely fictitious.

You are reminded of the need for good English and clear presentation in your answers.

Section A: Contractual Liability

Answer **one** question only from this section.

- 1 Alan is the sole owner of his business and trades under the name of Goodrock Developments, a building firm. Alan has recently built a house, which he had hoped to sell at a healthy profit. Alan has not been able to sell the house and, as a consequence, he has been unable to settle his account with PBS Ltd, a local company that supplied him with the materials that he needed to build it. Alan currently owes PBS Ltd £60,000 and only has £50,000 in the bank.

Discuss Alan's legal position and, in particular, advise him whether PBS Ltd would be legally entitled to go back on the promises made and attempt to recover the full amount that was owed in the following *independent* situations:

- (a) In order to prevent Alan from going out of business, PBS Ltd agree to accept a payment of £50,000 in full settlement of the £60,000 debt. [15]
- (b) PBS Ltd agrees to accept a lorry belonging to Alan in full settlement of the debt. It is only worth £20,000. [10]

- 2 Backyard Computers plc entered a contract with Cybertronics Ltd for the supply of a consignment of silicon chips at a cost of 25,000 pounds sterling. The terms required that shipment be made "in good condition". When delivery of the consignment arrived at Backyard Computers plc's warehouse, inspection revealed that part of the consignment had been damaged in transit and therefore did not conform to the contractual term. Backyard Computers plc thereupon refused to accept delivery of the consignment and to pay the contract price.

Consider the legal implications of each of the following *independent* situations occurring and discuss the extent to which Backyard Computers plc and/or Cybertronics Ltd might be liable for the loss sustained in each case.

- (a) Cybertronics Ltd subsequently sold the rejected consignment to Delta Components plc, who in turn sold them to Backyard Computers at the lower price of 15,000 pounds sterling. The silicon chips were then used for Backyard Computers plc's original purpose. [15]
- (b) Because of the rejection of the delivery of the consignment of silicon chips, Backyard Computers plc lost an existing order for computers from a valued customer. [10]

Section B: Tortious Liability

Answer **one** question only from this section.

- 3 Melanie works as a New Business Executive for the Northern Alliance Insurance Company.

Consider the potential liability *in tort* of Northern Alliance Insurance Company in each of the following *independent* situations:

- (a) She is dismissed from her job for failing to meet targets and for fraudulent handling of policy premiums. After a week or two of unemployment she applies for a similar job with Overseas Life Assurance Company and, following an interview, a reference is sought from Northern Alliance Insurance Company. The reference provided by Northern Alliance fails to mention the fraud committed by Melanie whilst she was working with the company. She is given a job by Overseas Life Assurance Company and over the forthcoming months she proceeds to withhold from the company several thousands of pounds in premiums that she has collected from new customers. [15]
- (b) She does not get on with her boss and has applied for a job with Overseas Life Assurance Company. The reference provided by Northern Alliance is negligently prepared and highly unfavourable and, as a consequence, Melanie is not offered a job by the new company. [10]

- 4 Philip is a scientist and he uses a room at the back of his house as a laboratory. He has been conducting experiments in his laboratory at home since 1975.

Consider Philip's potential liability *in tort* and the likely success of any defences that might be raised in each of the following *independent* situations:

- (a) Roger has lived in the house adjoining Philip's since 1978. Over the years, he has put up with the noise of continual small explosions coming from Philip's laboratory and has not complained. However, as Roger has grown older, his hearing has become weaker and he now finds it very difficult to hear his television because of the noise from Philip's house. He has now complained about the noise, but Philip simply ignores him. [15]
- (b) Philip has always stored his chemicals in an accepted, safe manner. The windows of both Philip's and Roger's houses were blown out by a large explosion that was caused by the way in which one of the chemicals had been stored. No scientist in the world at that time knew that this could happen. [10]

Section C: Criminal Liability

Answer **one** question only from this section.

- 5 Erin and Fergal are members of the RAC (Rights for Animals Campaign). In order to draw attention to their cause, they decide to blow up a building in which animals are farmed for their fur. By threatening to kill his wife if he does not help them, they manage to persuade Garth, who works for a chemical company, to supply them with the materials to make a bomb. They also persuade another RAC member, Heather, to drive them to the farm in her car. Erin and Fergal plant their bomb and telephone the farm to warn them that a bomb will explode in ten minutes and that those people inside should leave immediately. The bomb explodes early, killing Ian and seriously injuring Jill as they were trying to vacate the building.

With reference to the situation above and using decided cases to support your arguments, discuss the offences, if any, with which Erin, Fergal, Garth and Heather could be charged and what the prosecution would need to prove to establish liability for each offence. [25]

- 6 Ken and Liam are neighbours. Ken fits a new stereo in his car and plays it loudly outside his house for some time. Liam is trying to relax in his garden, practising his golf technique and has tried on several occasions to attract Ken's attention in order to ask him to turn down the volume, Ken ignores him. An hour or so passes and, still clutching his golf club, Liam decides to go round to Ken's house. He walks up to Ken's car, which is vibrating with the noise from the stereo, and he manages to speak to Ken, whose only reaction is to turn up the volume. Liam loses his temper, raises his golf club and hits Ken across the head with it.

Consider the legal implications of each of the following independent situations occurring and discuss the extent to which Liam might be liable for the loss sustained in each case.

- (a) the blow to the head causes cuts and severe bleeding. An ambulance is called to take Ken to hospital but, due to a national fuel shortage it never arrives and Ken dies from his injuries. [15]

and

- (b) the blow to the head breaks Ken's spectacles and causes minor cuts to Ken's face. [10]