

Candidate Name

Candidate Number

Centre Name

Centre Number

Paper 3B: Law in action: Tort

For Examination December 2023

(1 hour 30 minutes)

You must answer on the enclosed answer booklet.

INSTRUCTIONS

- Answer two questions in total.
- Answer **ALL** parts of question 1 in section A.
- Answer **ONE** question **ONLY** in section B.
- You should spend no more than 45 minutes on each question.
- Your answers should be supported by references to relevant instruments and/or authority.
- Full case citations are not required. A partial reference to the title and/or a brief description of facts will be sufficient.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 60.
- The number of marks for each question or part question is shown in brackets []

Section A

Answer all parts of question 1. You should spend no more than 45 minutes on this section.

1. (a) Maryam aged 76, is knocked over in a busy shopping mall by Nigella, a member of the store security staff, and another person who had allegedly attacked a child in the mall. The attack constituted an indictable offence. Nigella was blocking the individual but not restraining them but was ready to take hold of him if he tried to run away. The individual, who had so far been calm and talking, suddenly tried to escape. As Nigella took hold of the individual, they both collided with Maryam (who she had not seen) and fell on top of her, causing Maryam to be injured.

Nigella says that under all the circumstances it is not reasonable that she should be said to have had a duty of care towards Maryam. Advise Nigella on this point. [10 marks]

(b) "My neighbour Penny is so unreasonable," says Oliver. "I'm just learning how to fly my new drone and, every now and again, it flies over her garden. She says she's going to take me to court for trespass and stop me. I don't see how. It's not like I do it deliberately or land the drone in her garden. And I don't break her plants or do any other actual harm, so I'm not likely to have to pay her any money. Anyway, she's only a tenant. The landlord hasn't said anything. What do you think? Can she stop me?"

Advise Oliver about the trespass. [10 marks]

(c) Roger is a keen angler, and often spends his weekends fishing off the beach some 50km from his home. He uses a campervan, which a friend allows him to park in a field near the beach. Roger agrees that this is a bare licence that can be terminated at any time without notice by his friend. The campervan is fitted for Wi-Fi, which Roger uses to keep in contact with social media. Recently, a large 250m tall statue has been constructed by Sally, an artist. It is some way from where Roger parks but is very close (less than 10 kilometres away) to the primary Wi Fi tower. As a result, the statue interferes with Roger's Wi Fi reception. Roger claims that this amounts to a private nuisance.

Advise Sally as to whether Roger's claim has any chance of success. [10 marks]

Section B

Answer ONE question only from this section

2. (a) What is meant by strict liability in the law of tort? [5 marks]
(b) Describe rule in *Rylands v Fletcher* and consider if it is still necessary given the range of alternative actions available. [25 marks]
3. (a) Outline what is meant by the concept of res ipsa loquitor in tort. [5 marks]
(b) Evaluate whether the concept of remoteness in negligence is still relevant. [25 marks]
4. (a) When is a public nuisance actionable as a tort? [5 marks]
(b) How and why are employers liable in tort for the acts of an employee? [25 marks]
5. (a) When is self-defence a suitable response to a claim of trespass to person. [5 marks]
(b) Is it true that the defence of contributory negligence obliges that the court to achieve justice by examining the behaviour of all parties? [25 marks]