

UNIVERSITY OF BOLTON

SCHOOL OF LAW

LLB LAW

SEMESTER 1 2024/25

LAW OF TORT

MODULE NO: LAW5009

Date: Thursday 9th January 2025

Time: 10.00am - 12.15 pm

INSTRUCTIONS TO CANDIDATES:

The examination paper is divided into two sections.

- **Part A - The initial multiple-choice section contains 30 questions, ALL of which should be attempted.**
- **Part B - There are four questions on this paper, you are required to answer TWO of the questions.**

Part A of the paper provides 30% of the marks;

Part B of the paper provides 70% of the marks, 35% per question.

The examination amounts to 100% of your mark in this module.

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PART A – MULTIPLE CHOICE QUESTIONS

PLEASE ANSWER THESE WITHIN YOUR EXAM PAPER BY SELECTING THE CORRECT ANSWER AND NOTING YOUR RESPONSE WITH A CAPITAL A, B, C OR D

EACH QUESTION IS WORTH 1 MARK

Within section A there is only **ONE** correct answer to each question. If you give more than one answer for any multiple-choice question you will receive **NO** marks for that question.

Answers must be completed in *the student answer book provided*. For example for question 1 write 1 in the left margin followed by the appropriate letter which indicates your answer (a. to d.) on the lined page – the example below demonstrates:

1	a
2	b
3	c
4	d
5	a

Should you wish to qualify your multiple choice answer, please write your qualification in the answer book. Make it clear which question your qualification applies to. Only perform this task if you truly believe it to be necessary.

ANY ANSWERS NOT WRITTEN IN THE ANSWER BOOK WILL NOT BE MARKED.

Please ensure that you write legibly so that there is no doubt what your answer is. It is advisable to answer in capital letters.

The answers expected refer to legal *terms of art*. Your answers should therefore relate to this professional vocabulary and not simply to the *general* meaning of words and expression.

Both question paper and answer book *must* be handed in at the end of the examination.

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Part A – You must attempt ALL questions in this part

- 1) Which of one of the following is **not** a purpose of Tort Law?
 - a. Compensation
 - b. Deterrence
 - c. Criminal Sanction
 - d. Loss Distribution
- 2) What is meant by the term 'actionable per se'?
 - a. Actionable only in the civil courts
 - b. A tort of strict liability
 - c. Actionable without proof of damage
 - d. Actionable at the instance of the injured party only
- 3) Which one of the following interests is **not** protected by the law of tort
 - a. Loss of commercial profit due to competition
 - b. Reputation
 - c. Physical safety
 - d. Peaceful enjoyment of one's land
- 4) Which one of the following is **not** a factor to consider in a case of Battery?
 - a. Intention
 - b. Force
 - c. Contact
 - d. Proximity between claimant and defendant
- 5) Identify which of the following is **not** an essential element for a successful claim in false imprisonment:
 - a. Imprisonment in a room
 - b. No safe means of escape
 - c. No lawful justification for the restraint
 - d. The persons awareness of their imprisonment
- 6) Which one of the following is not a defence to wrongful interference to a person in tort?
 - a. Consent
 - b. Necessity
 - c. Self-defence
 - d. Automatism

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- 7) Can words alone amount to assault?
- a. Yes - words alone can cause the victim to apprehend harm and thus constitute an assault.
 - b. No – words alone cannot cause the victim to apprehend harm and thus cannot constitute assault.
 - c. The position of the law on whether words alone can amount to assault is unclear.
 - d. Words spoken must be backed by physical contact for it to amount to an assault.
- 8) Which one of the following is not an example of wrongful interference to the person?
- a. Assault
 - b. Negligence
 - c. Battery
 - d. False imprisonment.
- 9) Which one of the following would not be recoverable in a claim under tort?
- a. Psychiatric injury
 - b. Compensation for defective goods
 - c. Physical injury
 - d. Pure Economic loss
- 10) Which of the following is not an element of the three-part test for determining a duty of care devised in *Caparo v Dickman* [1990] UKHL 2?
- a. Harm must be reasonably foreseeable as a result of the defendant's conduct
 - b. It must be fair, just and reasonable to impose liability
 - c. Consideration must be given as to reasons why there should not be a duty of care
 - d. The parties must be in a relationship of proximity
- 11) Which of the following is not one of the elements identified by Lord Atkin in *Donoghue v Stevenson* [1932] as a requirement for a successful claim in negligence?
- a. the existence of a duty of care owed by the defendant to the claimant.
 - b. malicious intent on the part of the defendant to harm the claimant.
 - c. a breach of the duty owed by the defendant.
 - d. damage to the claimant caused by the defendant's breach of duty
- 12) Which one of the following is true of the 'reasonable man'?
- a. He is of low intelligence.
 - b. He is greatly experienced.
 - c. He is casual about safety.
 - d. He is neither excessively cautious nor unusually risk-taking.

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- 13) Kim bumps into Michael as she is walking through a busy bus station, looking at her mobile phone. Which one of the following is the correct statement of the law?
- a. This is an assault as Michael reasonably apprehends that Kim will bump into him.
 - b. This is an assault as Pia intends that Michael will reasonably apprehend that she will bump into him.
 - c. This is a battery as Pia intentionally applies unlawful force to Michael when she bumps into him.
 - d. This is neither an assault nor a battery as it falls within the generally acceptable standards of conduct
- 14) A Lecturer tells his wife that a law student is involved in the supply of narcotics in a local nightclub even though he has no basis for the allegation and no evidence to support the claim. The student has never actually attended the nightclub in question. Why can the student not bring an action for defamation against the Lecturer?
- a. Because it is a communication between spouse, and this does not count as a publication.
 - b. Because it is true so the defence of justification applies
 - c. Because it is in the public interest and so the defence of fair comment applies
 - d. Because it is not defamatory
- 15) Which one of the following accurately describes the term '*ex turpi causa non oritur actio*'?
- a. The rejection of the claimant's action on the ground that he did not commence proceedings in a timely manner.
 - b. The rejection of the claimant's action on the ground that he voluntarily assumed the risk of loss.
 - c. The reduction of the claimant's damages on the ground that he contributed to the loss that he suffered.
 - d. The rejection of the claimant's action on the ground that he was engaged in an illegal act when he sustained the loss.
- 16) Which one of the following is an accurate description of the 'egg skull principle'?
- a. The Claimant should have more resilience to the harm.
 - b. Harm is not foreseeable therefore the claimant will not succeed in Negligence.
 - c. You must take your victim as you find him.
 - d. The defendant cannot be expected to compensate as the injury was too remote

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- 17) Which one of the following remedies is not available in private nuisance?
- a. Specific performance
 - b. Injunction
 - c. Abatement
 - d. Damages
- 18) A man visits his aunt at her place of work. She works in a 20-storey office building in the centre of town. After lunch, he gets in the lift to go down to the ground floor and presses the appropriate button. When the lift gets to the second floor it stops, judders and then goes into a freefall until it hits the ground in the basement. The man sustains a broken back and is permanently disabled. The injured man is unable to uncover any evidence proving what caused the collapse of the elevator. He sues the building owner for negligence. In order to be successful, what legal principle can he turn to for assistance?
- a. Strict liability
 - b. *Res Ipsa Loquitur*
 - c. *Novus actus interveniens*
 - d. *Volenti non fit injuria*
- 19) Which one of the following is not a defamation?
- a. Libel
 - b. An imputation which indirectly affects a person's reputation
 - c. Slander
 - d. Abusive words spoken in the heat of an argument

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20) Which of the following are primary victims?

Adrian, who was involved in a car crash caused by the negligence of the other driver and who suffered a recurrence of clinical depression from which he had previously recovered. Adrian is otherwise unharmed.

Brett, a fireman, who was called to cut the driver from a petrol tanker which had crashed and was likely to explode in flames at any moment. Brett has since suffered post-traumatic stress disorder as a result of the experience.

Callum, a fireman, who was called to cut the passenger from a car that had crashed after being driven negligently by the driver. The passenger is Callum's son and Callum suffers post-traumatic stress disorder after seeing the extent of his son's injuries.

Dalvinder, a paramedic, who tends burn victims in his ambulance who had been pulled from a burning house, and who suffers post-traumatic stress disorder as a result of seeing the extent of his patient's injuries

- a. Adrian and Callum
- b. Callum and Dalvinder
- c. Adrian and Brett
- d. All are primary victims

21) The rule of '*res ipsa loquitur*' is related to which one of the following torts?

- a. False imprisonment
- b. Negligence
- c. Defamation
- d. Malicious Prosecution

22) Which of the statements below does not accurately reflect what is required of a secondary victim by the ratio of *Alcock v Chief Constable of South Yorkshire [1991]*?

- a. Suffering nervous shock through what was seen or heard of the accident or its immediate aftermath
- b. Proximity to the accident, or its immediate aftermath, which was sufficiently close in time and space
- c. A sufficiently close relationship of love and affection with the injured party
- d. Reasonable foreseeability that they would be physically injured by the negligence

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23) Causation in fact is generally measured against which of the following tests?

- a. the reasonable man' test
- b. the 'but for' test
- c. the Caparo three-part test
- d. the neighbour principle

24) Who is a tortfeasor?

- a. A person or entity who commits a tort
- b. A person who brings a tort case in court
- c. A person who voluntarily accepted the risk in a tort action
- d. A Solicitor who handles tort cases

25) Which one of the following is not an absolute defense to an action of defamation?

- a. Absolute privilege
- b. Consent
- c. Fair comment
- d. Justification

26) Lord Atkin's judgement in the case of *Sim v Stretch* [1936] suggested that a defamatory statement is one that lowers the claimant in the estimation of:

- a. Society generally
- b. The reasonable man
- c. Right-thinking members of society generally
- d. The right-thinking man

27) Which of the following groups cannot sue in defamation?

- a. Companies
- b. Local authorities
- c. Politicians
- d. Celebrities

28) Which one of the following accurately describes the 'but for' test in a tort action?

- a. A common legal and factual causation test used to determine whether the defendant's conduct caused the plaintiff's harm
- b. A test that is used to evaluate the defendant's state of mind, intention, belief, or knowledge at the time of a particular action or event.
- c. A test that is used to assess the defendant's actions or behaviour based on what a reasonable person would have known, thought, or done in the same circumstances
- d. A common law test that assesses the foreseeability of harm, proximity between the parties and whether it is fair, just and reasonable to impose a duty of care

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29) After the case of *Mullin v Richards* [1998] 1 All ER 920 (which follows the principle in the Australian case *McHale v Watson*) the standard of care appropriate to a child defendant appears to be:

- a. The standard of a reasonable child
- b. The standard of a reasonable child of the same age as the defendant
- c. The standard of a child sharing the same understanding as an adult
- d. The standard of a reasonable man

30) There are two key Statutes in relation to occupiers' liability. Which act relates to which types of people coming on to a property?

- a. Occupiers' Liability Act 1957 relates to visitors, the Occupiers' Liability Act 1984 relates to non-visitors
- b. The Occupiers' Liability Act 1957 relates to non-visitors, the Occupiers' Liability Act 1984 relates to visitors
- c. The Occupiers' Liability Act 1957 and the Occupiers' Liability Act 1984 both relate to visitors
- d. The Occupiers' Liability Act 1957 and the Occupiers' Liability Act 1984 both relate to non-visitors

End of Section A

Section B begins over the page

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PART B – ESSAY QUESTIONS

There are four questions in this section, you are required to answer TWO of the questions.

Question 1 – 35 marks

Joshua a professional heavyweight boxer fought Tyson at O2 Arena London, United Kingdom on 1st December 2024 in a fight organized by the British Boxing Federation. During the fight, Anthony brutally knocks out Tyson. The referee and other match officials leave Tyson on the floor unattended for 10 minutes. During this time Joshua was being celebrated and lifted across the ring. Tyson suffered a subdural haemorrhage resulting in irreversible brain damage which left him with, among other things, a left-sided partial paralysis. Tyson contends that Joshua, the Referee, and the British Boxing Federation owed him appropriate medical assistance at ringside. The British Boxing Federation has released a statement that any liability arising from the fight would rest on Joshua and the Referee. Tyson wants to sue Joshua, the Referee, and the British Boxing Federation.

Advise Tyson as to the liabilities and defences that can be used by the parties. In so doing, explain what Tyson needs to establish for a successful claim in court.

Question 2– 35 marks

Alan was invited to a legal networking party by Bob. Christine, one of the guests, decided to take a toy gun with her to the party for a joke. She jumped in front of Alan, waved the gun and shouted: 'You are going to die Alan'. Alan passed out and was lying on the floor. He was carried into a spare bedroom by David, another guest. Sometime later Bob saw that the bedroom door was open and without looking inside, locked the door, as the room contained valuables. David and Christine later went to see how Alan was but found the door locked. They asked Bob for the key, but he refused as he was busy entertaining the guests. One hour later he opened the door. Alan was still unconscious, so Bob slapped Alan hard in the face and woke him up. As a result of this Alan swung his fist in a reflex action and knocked some of Bob's teeth out. Bob's wife was furious about this and for the next few months sent hate mail and unpleasant tweets to Alan. Alan was really upset by this but did not suffer any recognisable psychiatric illness.

What torts have been committed by the parties in the above case and which defences do you consider to be relevant?

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Question 3 – 35 marks

Punter, a trainee solicitor, has recently been left a substantial sum of money by his late aunt, which he now wishes to invest. He is told by Ian, a stockbroker client of his law firm, after a client briefing, that Edge.com PLC is currently enjoying considerable success and that since the company's shares are under-priced Punter should buy now. He offers to undertake the purchase for Punter when given the go-ahead by him.

Punter later meets Hackett, an old friend of his, for a drink in the pub. Hackett has recently been appointed into the administrative department at Bookless Bank and Punter asks him about the wisdom of buying the shares. Hackett says that although he does not have much experience in financial advising, he is interested in business matters and always reads relevant papers. He says Money Weekly, one of the most respected on-line financial papers, predicts that Edge.com is undervalued since the company seems poised to announce record profits. Hackett therefore concludes that on the basis of this report and his general overview of business affairs, Punter should go ahead and buy.

Following the advice, he received, Punter invests heavily in the company. After 2 months the company is put into liquidation by its creditors and Punter loses all of his investment.

Advise Punter as to whether he has any legal redress to recover his losses against Ian, Hackett and Money Weekly.

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Question 4 – 35 marks

John is a self-employed minibus driver at a bird of prey experience centre called 'Chesney's Hawks'. He drives visitors between different areas of the park so that they can experience the majesty of a range of birds, from Owls to Eagles. As John drives between the Ossie the Ospreys area through to the area where Freddie the Falcon flies, he takes a bend and the minibus overturns. John admits that his driving was negligent as he took the bend too sharply and at too great a speed. The bus catches fire and the body of one of the injured passengers, Jeff, is badly burnt.

Jeff's daughter, Beverley, is also on the minibus. She escapes injury but she has now suffered the recurrence of a psychiatric condition from which she had been free for many years.

Paul, the police officer summoned to take charge at the accident scene, is shocked when he recognises one of the passengers on the bus, who has suffered severe burns, as his brother, Lee. Paul stays with Lee until he dies from his injuries. Paul is now suffering from post-traumatic stress disorder.

When Jeff's wife, Amy, is told of his injuries by police officers about two hours after the accident, she goes immediately to the hospital to which Jeff has been taken and sees him in a distressing condition. Jeff is suffering great pain from his burns and has not yet been given any pain killing treatment. Amy is now suffering from clinical depression.

Advise John of his potential liability in tort to Beverley, Paul and Amy.

END OF QUESTIONS