AS LAW
Unit 2  The Concept of Liability

Thursday 24 May 2018  Afternoon  Time allowed: 1 hour 30 minutes

Materials
For this paper you must have:
• an AQA 12-page answer book.

Instructions
• Use black ink or black ball-point pen.
• Write the information required on the front of your answer book. The Paper Reference is LAW02.
• Answer questions on two scenarios.
• Answer all questions on Scenario 1 (Section A), and choose either Scenario 2 (Section B) or Scenario 3 (Section C) and answer all questions on the scenario you choose.
• Do all rough work in your answer book. Cross through any work you do not want to be marked.
• Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Information
• The marks for questions are shown in brackets.
• The maximum mark for this paper is 94.
• In questions [0 3], [0 9] and [1 5], two marks will be awarded for Assessment Objective Three (AO3), and so you will be marked on your ability to:
  – use good English
  – organise information clearly
  – use specialist vocabulary where appropriate.
Section A Introduction to Criminal Liability

Answer all questions on Scenario 1.

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this scenario: 45 marks + 2 marks for AO3

Scenario 1

Dan, whose son recently died from a drug overdose, wrongly believed that Alex was a local drug dealer. Dan challenged Alex about this and, although she denied it, Dan began to beat her with a baseball bat. Her friend, Viv, tried to intervene, but Dan roughly pushed Viv away. Viv fell over on to some broken bottles and suffered deep cuts that caused severe blood loss. Viv needed many stitches for her injuries. Alex suffered multiple bruises, internal injuries and broken bones in the attack and was in hospital for six months.

Actus reus requires proof of an act or omission, causation and a criminal consequence. Mens rea is also required for criminal liability, but there is an exception where the offence is one of strict liability.

0 1 Explain the meaning of the coincidence (contemporaneity) rule. [7 marks]

0 2 Briefly explain the meaning of a crime of ‘strict liability’ and briefly explain the reasons for having such offences. [8 marks]

Refer to the scenario when answering the remaining questions in this section.

0 3 With regard to the attack on Alex, Dan has been informed that he is likely to be charged with an offence under s18 Offences Against the Person Act 1861.

Explain the actus reus and mens rea of causing grievous bodily harm under s18 and discuss whether Dan is likely to be found guilty of this offence. [10 marks + 2 marks for AO3]

0 4 Discuss whether Dan is likely to be found guilty of wounding under s20 Offences Against the Person Act 1861 for the injuries caused to Viv. [8 marks]
0 5 Dan might be charged with the offence of assault with respect to his initial confrontation with Alex.

Outline the pre-trial procedure which would be followed if Dan was charged with assault.

[5 marks]

0 6 Briefly explain what is meant by aggravating and mitigating factors in sentencing.

If Dan were to be sentenced for an offence against both Alex and Viv, outline how the court would decide on his sentence with respect to each victim.

[7 marks]

Turn over for the next section
Choose either Scenario 2 (Section B) or Scenario 3 (Section C) and answer all questions on the scenario you choose.

**Section B  Introduction to Tort**

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

**Total for this scenario: 45 marks + 2 marks for AO3**

**Scenario 2**

Fizzi are manufacturers of soft drinks. They are keen to reduce the sugar content in their drinks and have invented a new artificial sweetener, Nosug. The new sweetener, Nosug, has not yet passed government safety tests. Despite this, Fizzi decided to use Nosug in a test batch of drinks which they gave to a youth club to get teenagers’ views on the drink. At the club fifty people, who were not told the drink contained Nosug, tried the drink.

Jani, one of those who had tried the drink, became violently ill and was rushed to hospital suffering from hallucinations. It was discovered that Jani had taken a small dose of an illegal drug just before she entered the club. The drug had reacted badly to Nosug. It is expected that as she gets older, her hallucinations will change and lessen, allowing her to lead a normal life.

Negligence requires proof of duty of care, breach of duty, and damage.

**07**

A claimant must prove that a duty of care is owed using the three-part test set out in the case of *Caparo v Dickman*. Two parts of this test are as follows:

- that loss to someone in the claimant’s position was a reasonably foreseeable consequence of the defendant's conduct
- that it must be fair, just and reasonable to impose a duty of care.

Briefly explain these **two** parts of the test.

[7 marks]

**08**

Breach of duty involves the defendant failing to reach the standard of care of a reasonable man. Risk factors affect whether that standard has been breached.

Briefly explain the following **two** risk factors:

- the magnitude (size) of the risk
- whether all practical precautions have been taken.

[7 marks]
Refer to the scenario when answering the remaining questions in this section.

09  Briefly explain the rules on causation, including remoteness of damage, in negligence. Discuss how they apply to Jani’s possible claim against Fizzi. 
[10 marks + 2 marks for AO3]

10  Discuss whether or not Fizzi owed a duty of care to Jani. 
[8 marks]

11  Jani decides to sue Fizzi for negligence. Outline the procedure which would be followed before a trial takes place. 
[5 marks]

12  Assume that Fizzi was found liable in negligence. Explain how the court would calculate an award of damages to Jani. 
[8 marks]

Turn over for the next section
Choose either Scenario 2 (Section B) or Scenario 3 (Section C) and answer all questions on the scenario you choose.

**Section C  Introduction to Contract**

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

**Total for this scenario: 45 marks + 2 marks for AO3**

**Scenario 3**

Without giving their name, Fizzi (a soft drinks manufacturer) advertised in trade journals for new suppliers of cans for the drinks. Fizzi gave a price they would pay per 100,000 cans. Fizzi are well known in the trade to take a long time to pay their bills.

Megacans replied by email saying they could provide cans with two-colour printing to Fizzi’s design at the price that Fizzi said they would pay. Fizzi replied by email, ‘How much for three-colour printing?’ On Tuesday Megacans replied by email with a price for three-colour printing. Fizzi decided on Tuesday to accept the (three-colour) offer from Megacans and emailed Megacans immediately to that effect. On Wednesday morning, Megacans discovered the identity of the advertiser (Fizzi) and immediately emailed Fizzi with a higher price (for three-colour printing) than that first quoted because of the likelihood of delays in payment.

Because of internet problems, Fizzi’s emailed acceptance sent on the Tuesday did not arrive until Wednesday morning. Megacans’ email with the revised price did not arrive until Wednesday afternoon.

Two months later, when the price of cans had risen sharply, Fizzi emailed Megacans requiring 10 million cans at ‘the agreed price’. Megacans did not deliver any cans.

A valid contract requires an offer, acceptance, an intention to create legal relations and consideration.

1 3 Explain the meaning of intention to create legal relations. [7 marks]

1 4 Explain what is meant by consideration in the law of contract. [7 marks]
Refer to the scenario when answering the remaining questions in this section.

15 In relation to contract law, discuss each of the stages in the negotiations between Megacans and Fizzi. Consider if and when a contract was formed between them.  

[10 marks + 2 marks for AO3]

16 Outline the difference between actual breach and anticipatory breach.  

Assume the court decided that there was a contract between Megacans and Fizzi. Briefly explain whether there was a breach of contract between Megacans and Fizzi and briefly explain whether the breach was an actual breach or an anticipatory breach.  

[8 marks]

17 Fizzi decides to sue Megacans for breach of contract. Outline the procedure which would be followed before a trial takes place.  

[5 marks]

18 Assume that Megacans was found liable for breach of contract. Explain how the court would calculate an award of damages to Fizzi.  

[8 marks]

END OF QUESTIONS