



**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**

**January 2025**

**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.
- A basic calculator is provided should you require the use of one.
- You can use your own unmarked copy of the following designated statute book - ***Blackstone's Statutes on Contract, Tort & Restitution 35<sup>th</sup> edition, Francis Rose, Oxford University Press, 2024.***
- 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. Critically evaluate how the courts have restricted liability in claims for occupiers' liability when the case involves consent to activities with obvious risks.  

**(25 marks)**
  
2. The law on psychiatric injury has been described as unsatisfactory.
  - (a) Describe the principles from common law that apply in these cases.  

**(8 marks)**
  - (b) Critically discuss the problems associated with this area of law.  

**(17 marks)**

**(Total: 25 marks)**
  
3. Critically discuss the development of the approach taken by the courts regarding claims for pure economic loss.  

**(25 marks)**
  
4. 'Who owns the land, owns to the heavens and down to hell' has been a phrase used to explain one of the restrictive principles in claims for trespass to land.  

Critically evaluate the principles that apply to this area of law.  

**(25 marks)**

## SECTION B

Answer at least one question from this section.

### Question 1

Amelia and Bilal were rivals in a moot competition at their university. They were both known to have heated debates in class and both had made it clear to their classmates how keen they were to win the competition.

As they passed in the hallway of the university, Amelia began taunting Bilal, claiming his legal arguments were always easy to challenge. Bilal had not had much sleep the night before and was feeling bad tempered. He whispered into Amelia's ear "Shut up before I shut you up for good!" Enraged, Amelia stepped towards Bilal while raising her fist and shouting "No one speaks to me like that!" Bilal grabbed Amelia by both arms and tried to restrain her. A security guard heard the shouting and arrived on the scene.

The guard told Amelia and Bilal that they had to follow him to his office to deal with the incident. When they arrived at the office, the guard told them to wait inside while he called for the principal. Bilal opened the window to see if he could get away but they were on the third floor and there was no safe way of getting to the ground; when he tried to open it, the guard told him to step back inside, or he would call the police. A few minutes later the principal arrived and told Amelia and Bilal that he would arrange a meeting to discuss the matter and for them to both leave the premises until then.

Advise Amelia, Bilal and the university as to their potential liability in claims for trespass to the person and any defences that may be available.

**(25 marks)**

**Turn over**

## Question 2

Carl owns a takeaway food delivery app, Kempston Kitchen. He hires delivery drivers on zero-hour contracts to make the deliveries. They have to have their own vehicles but wear the uniform supplied to them by Carl and follow instructions as to what deliveries to make. Allocation of shifts work on a first-come-first served basis so those who book themselves in for shifts are the first to be given the work.

Donna is a regular driver for Kempston Kitchen. During a delivery, Donna received a call from her husband informing her that he could not collect their daughter from school as he was caught in traffic. Donna rushed to the delivery but she was speeding and collided with a parked vehicle, scraping her car along the side of the vehicle. Donna did not want to miss collecting her daughter so continued to speed, hurriedly delivered the food and made her way towards the school.

Still speeding as she turned into the road where her daughter's school is, Donna lost control for a moment as she tried to stop quickly. She swerved onto the front garden of a house and destroyed a row of plants.

Later that day, with multiple deliveries on board her car, Donna came out of a property after making a delivery and saw a man, Frank, standing by her car. Fearful that Frank was trying to steal food from her car, she grabbed him and pulled him back from the car. Frank broke free of Donna's grip shouting "What are you doing? I'm just waiting for a cab!"

That evening, the company was throwing a party for their manager, Gaia, who was retiring. Everyone at the party was drinking alcohol and dancing. Donna ran to a colleague on the dance floor but fell and pushed them to ground, injuring their back.

Donna staggered over to Gaia and began to tell her how happy she was that Gaia was leaving as she had always made bad decisions when it came to the safety of the drivers. Gaia was enraged that Donna would speak to her that way while she celebrated with people she had worked with for so long and slapped Donna across the face.

Advise Carl as to his potential liability for the incidents involving Donna and Gaia in claims for vicarious liability.

**(25 marks)**

### Question 3

Harry and India were drinking with other colleagues in the pub after work. Harry had promised India that he would be the designated driver. Later that evening, when India was ready to leave, she went to find Harry as she had been mingling with others. She found Harry by the pool table and he was clearly drunk. When she questioned him about whether he had been drinking he just laughed and winked. "Come on!" Harry told her, "I'm fine, you know I am!"

India did not want to have to make other arrangements and so reluctantly got in the car with Harry. At first there were no problems with his driving but then they spotted a friend, Jamal, walking along the street. Harry pulled over and offered Jamal a ride home. Jamal was close friends with Harry and could tell immediately that he was intoxicated. He sat in the middle of the back seat and leaned into the front and told Harry to put the music on loud, encouraging him to drive even faster. Harry began to speed up and lost control of the car. The airbag opened, causing bruising to India's face; Jamal was thrown into the front of the car and sustained a serious head injury.

India claims that she had arranged for a modelling shoot through an agent (who had promised her a successful career) and now had to cancel the shoot because of the bruising on her face. Jamal suffered severe headaches owing to his injury and has not been able to work in the year since the incident. The doctors estimate that he will need at least another three months to recover. Jamal is unable to work and must take medication daily for the pain. He is now unable to enjoy his pastime of rugby that he enjoyed every weekend.

**Assume that a duty of care issues of causation and a breach of duty have already been established.**

- (a) Advise Harry as to whether there are any potential defences available to him in claims made by India and Jamal in negligence.

**(10 marks)**

- (b) Advise India and Jamal of the damages they may be awarded if their claim in negligence is successful.

**(15 marks)**

**(Total: 25 marks)**

**Turn over**

#### **Question 4**

Malcolm wanted to move out of the city. He viewed a house in a village and noticed a racing circuit venue, ran by Neil, behind the property. Malcolm questioned the estate agent and was told that the racing venue was open only in the daytime. Malcolm believed this would not be a problem as he would be at work during the day.

One evening, the racing circuit continued into the evening. Annoyed, Malcolm visited the circuit and was told they were having a private party. Malcolm asked them to be quiet and left. Over the next few weeks, the same thing kept happening. Late into the evening, there would be racers using the circuit, now using floodlights that shone into Malcolm's living room and bedroom above.

Malcolm was repeatedly told by the venue that they had the right to hold parties and that no one had ever complained. One of Malcolm's neighbours told him Neil had been telling people in the local pub that he was doing it on purpose as he felt Malcolm had been rude by complaining.

Olivia lived on the other side of the venue. The floodlights and the continuous changing of headlights circling the venue shone into Olivia's living room. Olivia had a son diagnosed with autism and the lights made him agitated. When Olivia asked Neil to refrain from late parties, she was told the venue had permission from the local authority to remain open until 10 pm. The local authority believed the venue was beneficial to the community and because it had been in the village for 18 years with no complaints, they authorised his application.

Peter lived at the end of the same street. Beyond the property was woodlands that provided Peter with an amazing view. It was one of the primary reasons for Peter purchasing the property. One day he received a leaflet through his letterbox stating that a new development was to be built next to his home that included a block of apartments. Peter wrote to the local council stating he would lose the view and would be overlooked by the new tenants.

Advise Malcolm and Olivia as to their potential success in claims against Neil for nuisance and advise Peter as to his potential success in claims against the developer.

**(25 marks)**

**End of the examination**