

Pearson BTEC Level 3 Nationals Certificate/Extended Certificate

January 2021

Paper Reference **20168K**

Applied Law

Unit 1: Dispute Solving in Civil Law

Part A

You do not need any other materials.

Instructions

- **Part A** contains material for the completion of the preparatory work for the Set Task in **Part B**.
- **Part A** is given to learners one week before **Part B** is scheduled. Learners are advised to spend no more than six hours on **Part A**.
- **Part A** must be given to learners on the date specified by Pearson so that learners can prepare in the way specified.
- **Part A** is specific to each series and this material must only be issued to learners who have been entered to take the task in that series.
- **Part B** materials for the Set Task must only be issued to learners on the date specified by Pearson.

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Instructions to Teachers/Tutors

This paper must be read in conjunction with the information on conduct for the task in the unit specification and in the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

This Set Task has a preparatory period. **Part A** sets out how learners should prepare for the completion of the task under supervised conditions.

Learners should undertake independent research on the **Part A** Set Task Information given in this booklet.

Learners are advised to spend no more than six hours undertaking **Part A**.

Centres must issue this booklet at the appropriate time and advise learners of the timetabled sessions during which they can prepare. It is expected that scheduled lessons or other timetabled slots will be used for some or all of the preparation.

Learners may prepare summary notes on the **Part A** Set Task Information. Learners may take up to two A4 sides of notes into the supervised assessment period (**Part B**). Learner notes must only contain details of legal principles and authorities, such as case law and statute law. Learner notes must also comply with the guidelines stated in the Administrative Support Guide for this unit.

Teachers/tutors cannot give any guidance or feedback to learners in the preparation of assessment notes, which must be completed independently by the learner.

The **Part B** supervised assessment will take place in a timetabled slot on a date specified by Pearson.

Refer carefully to the instructions in this booklet and the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document to ensure that the preparatory period is conducted correctly so that learners have completed their preparation validly and independently.

Learner notes will be retained securely by the centre after the **Part B** supervised assessment and may be requested by Pearson if there is suspected malpractice.

Instructions for Learners

Read the Set Task Brief and the Set Task Information carefully.

This contains **Part A** of the information you need to prepare for the Set Task in **Part B**. In **Part B** you will be given detailed information. Use this **Part A** booklet to prepare by relating your learning to the specific information given.

You must work independently and must not share your work with other learners.

Your teacher/tutor may give you guidance on when you can complete the preparation.

Your teacher/tutor cannot give you guidance or feedback in the preparation of your assessment notes.

Set Task Brief

You must research the law relating to the extracts in the **Part A** Set Task Information. You need to know about the law of negligence, including damages.

You also need to know about civil dispute resolution, enforcement of civil law and how precedent works.

In **Part B** you will need to apply your research to the new information provided.

Using this **Part A** booklet, you may prepare short notes to refer to when completing the Set Task in **Part B**, for example on specific cases. Your notes may be up to two sides of A4. Your notes must only contain details of legal principles and authorities, such as case law and statute law.

You should spend no more than six hours on this research.

Part A Set Task Information

SOURCE A

Nettleship v Weston [1971] 3 WLR 370 Court of Appeal

Facts: Mrs Weston was a learner driver. She was having driving lessons from a friend, Mr Nettleship. Mr Nettleship had checked that Mrs Weston's insurance covered her for passengers before he agreed to give her driving lessons. Mrs Weston steered the car and used the foot pedals and Mr Nettleship used the gear lever and handbrake. On the third lesson Mrs Weston drove round a bend. Mr Nettleship told her to straighten the wheel, but she panicked and didn't straighten it. The car was going towards the pavement, so Mr Nettleship quickly put the handbrake on and tried to straighten the wheel, but it was too late. The car went onto the pavement, hit a lamp post and fractured Mr Nettleship's knee.

Later, Mr Nettleship claimed damages for negligence against Mrs Weston. She denied negligence arguing that the standard of care should be lower for a learner driver. She also alleged contributory negligence and that Mr Nettleship impliedly consented to run the risk of injury. The trial judge dismissed Mr Nettleship's claim. He said that the only duty owed by Mrs Weston to Mr Nettleship was that she should do her best, and that she did not fail in that duty. Mr Nettleship appealed.

Held: The Court of Appeal found that Mrs Weston was liable even though she was a learner driver because the same standard of skill was expected of her as would be expected of a competent driver. A learner driver is expected to meet the same standard as a reasonable, qualified and competent driver. *Volenti* did not apply because Mr Nettleship had checked the insurance cover, which demonstrated he did not waive any rights to compensation. His damages were reduced by 50% under the Law Reform (Contributory Negligence) Act 1945 to reflect the degree to which he was also at fault.

Quote from the judgment: Lord Denning stated that the law demands from a learner driver ...

'the same standard of care as of any other driver. The learner driver may be doing his best, but his incompetent best is not good enough. He must drive in as good a manner as a driver of skill, experience and care ... who makes no errors of judgement ...'

(Adapted from: **Nettleship v Weston** [1971] 3 WLR 370 Court of Appeal
<https://www.bailii.org/ew/cases/EWCA/Civ/1971/6.html>)

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Wednesday 6 January 2021

Supervised hours: 1 hour 30 minutes

Paper Reference **20168K**

Applied Law

Unit 1: Dispute Solving in Civil Law

Part B

You must have:

Your prepared notes from **Part A** (maximum two A4 sides).

Instructions

- **Part B** contains material for the completion of the Set Task under supervised conditions.
- **Part B** should be undertaken by learners in 1 hour 30 minutes on the date specified by Pearson.
- **Part B** is specific to each series and this material must only be issued to learners who have been entered to undertake the task in that series.
- **Part B** should be kept securely until the start of the supervised assessment period.
- This booklet and your prepared notes should not be returned to Pearson.

Information

- The total mark for this Set Task is 60.

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Instructions to Teachers/Tutors and/or Invigilators

This paper must be read in conjunction with the information on conduct for the task in the unit specification and the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

The **Part B** Set Task is undertaken under supervision in a single session of 1 hour 30 minutes on the timetabled date.

The **Part B** Set Task requires learners to apply research. Learners should bring in notes as defined in **Part A**. The teacher/tutor and/or invigilator needs to ensure that notes comply with the requirements set out in the Administrative Support Guide for this unit.

Learners will need to complete the activities for the **Part B** Set Task using a computer.

The **Part B** Set Task is undertaken in a single session of 1 hour 30 minutes in a timetabled period. In order to enable learners to have access to computer resources, a period of one day is provided for centres to timetable the assessment.

Centres should schedule all learners in the same session if possible and must release **Part B** to individual learners only for their scheduled session.

Learner work must be completed independently and authenticated before being submitted to Pearson by the teacher/tutor and/or invigilator.

Learners must not bring anything into the supervised environment or take anything out of it without teacher/tutor and/or invigilator knowledge and approval.

Centres are responsible for putting in place appropriate checks to ensure that only permitted material is introduced into the supervised environment.

Maintaining security

- During supervised assessment periods, the assessment areas must be accessible only to the individual learners and to named members of staff.
- Learners can access their work only under supervision.
- Any work that learners produce under supervision must be kept securely.
- Any materials being used by learners must be collected in at the end and retained by the centre.
- Learner notes related to **Part A** must be checked to ensure length and contents comply with the requirements. Learner notes will be retained securely by the centre after **Part B** has been undertaken and may be requested by Pearson if there is suspected malpractice.

Outcomes for submission

Learners will need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a solicitor's letter for Activity 2
- a completed Declaration of Authenticity.

Instructions for Learners

Read the activities **and** the Set Task Information carefully.

You have a total of 1 hour 30 minutes in this session to complete the task.

You should use the notes you prepared during **Part A** to complete this Set Task.

Your notes must be your own work and will be retained by your centre until results are issued.

You will complete this Set Task under supervision and your work will be kept securely at all times.

You must work independently throughout the supervised assessment period and must not share your work with other learners.

You should complete **both** activities.

Outcomes for submission

You will need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a solicitor's letter for Activity 2
- a completed Declaration of Authenticity.

Your work must be word processed in size 12-point font.

Your prepared notes do not need to be submitted with the final outcomes to Pearson.

Set Task

You should complete **both** activities.

Using the information provided in the Set Task Information and your notes from **Part A**, complete the following activities.

Activity 1

You are a trainee legal executive specialising in personal injury litigation for Pentewan LLP, a firm of civil law solicitors. You have been asked to review a set of notes taken from an initial interview with a potential client, Daryll Jones, who wants to make a personal injury claim.

You have been asked to prepare additional file notes to be included in the Client Advice File relating to Daryll's case.

The file notes need to:

- show your understanding of the law relevant to the law of negligence
- show how the law of negligence applies to this case
- establish the likely outcome of the case.

(Total for Activity 1 = 30 marks)

Activity 2

Daryll has been informed of the likely outcome of the case and he now wants further advice.

Prepare a solicitor's letter that shows your understanding of:

- the likely damages Daryll could expect if he is successful
- the ways the claim could be funded and alternative sources of advice
- the use of Alternate Dispute Resolution instead of using the appropriate civil court for Daryll's case.

(Total for Activity 2 = 30 marks)

TOTAL FOR PAPER = 60 MARKS

Set Task Information

Caz had been taking small boat handling lessons so she could help out with her father's fishing business. She was being taught by a family friend, Daryll, who was a local fisherman. Daryll was an experienced small boat handler.

Daryll had checked that both Caz and her boat were insured on her father's fishing business insurance policy. During lessons he would sit beside Caz and instruct her. He did not wear a life-jacket so that he was in a position where he could reach the steering wheel if necessary.

On her second lesson Caz was steering the boat between the narrow harbour walls. The weather was fine and visibility was good. There were no unusual sea conditions. The boat was licensed, insured and in seaworthy condition.

As Caz turned the boat around the harbour wall she suddenly saw a group of schoolchildren learning to paddle canoes. She panicked because she didn't know whether to put the boat in reverse or try and steer around the children. Daryll shouted to her to steer around the children, and he quickly took hold of the steering wheel to help.

Unfortunately, it was too late. In a panic, Caz applied the reverse gear too hard and steered the boat the wrong way. She crashed the boat into the harbour wall and Daryll was thrown overboard and sustained significant head injuries.

Daryll's injuries meant he had to take three months off work. He also had to pay another fisherman £4,000 a month to run his fishing boat. Daryll was a successful artist and sold at least four paintings a month. He sold each painting for £5,000. Daryll was hoping to become a professional painter, but because of his head injuries he now does not have the coordination to paint at all. Daryll has also developed a fear of open water and struggles to go anywhere where he thinks he might come into contact with it.



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