

**OLLSCOIL NA hÉIREANN, GAILLIMH
NATIONAL UNIVERSITY OF IRELAND, GALWAY**

SUMMER EXAMINATIONS 1999/2000

**HIGHER DIPLOMA IN APPLIED SCIENCE
(OCCUPATIONAL HEALTH AND HYGIENE)**

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Legal Studies LW851

**TIME ALLOWED: 2 HOURS
THREE QUESTIONS TO BE ANSWERED**

Question No. 1

Before his accident, Mark worked in a furniture factory as a first year apprentice, where his duties included keeping the workshop tidy, a task which enabled him to earn a little overtime money. Occasionally he stayed on after work and although not authorised to do so, would use the circular saw to cut up waste timber as firewood. It was while doing so that his hand came in contact with the blade of the saw and he suffered a serious injury. The company have denied all liability.

Discuss Mark's case for suing his employer for negligence and breach of statutory duty, and whether he himself is likely to be found partially or fully liable for contributory negligence.

Question No. 2

While the general duties of an employer, as set out in Section 6 of the Safety Health and Welfare at Work Act 1989 are limited by the phrase "so far as is reasonably practicable", Section 50 of the Act allows an accused the opportunity to prove that it was not practicable to do more than what was in fact done to satisfy a particular duty or requirement.

Could this in your opinion offer a convenient opportunity for careless and resourceful employers to escape conviction?

Question No. 3

With regard to the building of once-off houses, how would you define a client's responsibilities under the Safety Health and Welfare at Work (Construction) Regulations 1995, in relation to general safety on site and the preparation of a safety file.

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Question 4

Outline the main provisions, legislative basis and authority of either:

- (a) The European Communities (Protection of Workers) (Exposure to Noise) Regulations 1990.

or

- (b) The 1999 Code of Practice for the Safety Health and Welfare at Work (Chemical Agents) Regulations 1994.

Question 5

The occupier of a premises used as a workplace is worried about his civil and criminal liability for the safety of non-employees who may for any reason come on to the premises.

Please advise him on the possible extent of his obligations under civil and criminal legal codes and suggest appropriate measures to limit his liability.

Question 6

Answer either (a) or (b)

- (a) "The essentials of good law are, on the one hand, certainty, and on the other, uniformity and consistency."
Briefly indicate how the doctrine of judicial precedent has contributed to the validity of this statement.

or

- (b) With regard to High Court actions for damages in personal injuries cases, briefly discuss the rules relating to the use of expert or specialist reports.