

GCE

LAW: Remedies

SUGGESTED IDEAS FOR TEACHING/LEARNING



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Teacher /Lecturer:	
Unit:	Unit 2
Ref. to specification:	The Law of Tort
Suggested time allocation:	2 – 4 hours

Course:	AS Level Law
Topic:	Remedies
Session:	Remedies

Aims & Objectives: At the end of these sessions the student will be able to:

- **Identify** the main remedies available in tort.
- **Explain** what is meant by mitigation of loss.
- **Explain** the difference between general and special damages.
- **Explain** nominal damages and contemptuous damages.
- **Explain** the difference between aggravated and exemplary damages.
- **Explain** the two main forms of injunctions.
- **Explain** *quia timet* injunctions, interim injunctions and final injunctions.
- **Explain** how the maxims of equity might affect the granting of an injunction.

Main Teaching and Learning Activities

Teacher/Lecturer Activities:

- Introduce the topic with reference to the aims and objectives set out above.
 - Explain the fact that for tort there exists two main remedies: the common law remedy of damages and the equitable remedy of injunctions.
 - DAMAGES – this is normally paid out to put the claimant back in the position they were in before the tort occurred. However, the claimant is expected to take reasonable steps to mitigate any losses. Explain the concept of mitigation of loss using the PowerPoint.
- Activity:** Discuss Mitigation of Loss scenario in PowerPoint: *The Flying Fish*.
- Explain the fact that damages are awarded in different categories: General Damages, Special Damages, Nominal Damages, Contemptuous Damages, Aggravated Damages and Exemplary Damages.
 - When discussing aggravated damages and exemplary damages, discuss key cases of *Rookes v Barnard (1964)*.
- Activity: Discussion:** do you think exemplary damages should be payable in cases of tort?
- Activity:** Create a summary sheet for the categories of damages – this could take the shape of a table, or a glossary or a mindmap.
- Activity: Class Discussion:** “Evaluate the concept of measuring loss in damages claims for injured parties”. Discussion can be facilitated as a debate where one half of the class discusses the positive aspects of the system of measuring damages and the other half discusses the negative aspects. Encourage learners to think about how far the system truly puts the claimant in the position they would have been had the tort not been committed.
- Students should create a balanced argument, with positives and negatives considered.
- INJUNCTIONS – these are an equitable remedy that requires a defendant to behave in a certain way. There are two main types of injunction: prohibitory and mandatory and these

are mostly used for the torts of nuisance, trespass to land and defamation. There are two additional types of injunction: Quia Timet injunction and Interim (interlocutory injunction).

- *Quia Timet injunction*: which is obtained prior to the commission of a tort. The leading case is *Fletcher v Bealey [1884]* which laid down the circumstances when it can be granted.

Activity: Class Discussion: Why do you think that the courts can be reluctant to grant a *quia timet* injunction?

- *Interim injunction*: this is granted once an action has begun but before the main court hearing. The leading case is: *American Cyanamid v Ethicon [1975]* which laid down the conditions for an interlocutory injunction to be granted.
- Injunctions are an equitable remedy and are therefore discretionary and subject to satisfaction of the maxims – discuss these using the PowerPoint.

Student Activities:

- Group work – create a summary sheet for the different categories of damages that are available.
 - Group discussion –. Evaluate the concept of measuring loss in damages claims for injured parties.
- Group discussion - Why do you think that the courts can be reluctant to grant a *quia timet* injunction?
- Scenarios – application of the law relating to mitigation of loss in The Flying Fish scenario.

Suggested links / resources:

- PowerPoint presentation
- Cases
- Teacher Guide
- Flipchart/A3 paper for summary of categories of damages.

Assessment of Learning

During the lesson

Group exercises and direct questioning show how much the students have understood common law and equitable remedies available in tort.

Facilitate discussion on whether the law relating to damages provides sufficient recompense for the injuries caused to the claimant.

Subsequent to lesson