UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW **9084/41**

Paper 4 Law of Tort **May/June 2013**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

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READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

At the end of the examination, fasten all your work securely together.
The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **3** printed pages and **1** blank page.

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Candidates must attempt **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

Section A

1 Legal action is not always necessary in order to protect oneself against a tort.

Using examples from a range of torts, discuss the extra-judicial remedy of self help which is available to a claimant and critically assess its virtue and limitations. [25]

2 'An occupier of premises owes a common duty of care to all his visitors, except in so far as he is free to and does extend, restrict, modify or exclude his duty to any visitor or visitors by agreement or otherwise.' [Section 2(1) Occupiers' Liability Act 1957].

Critically analyse how and to what extent occupiers might limit the liability imposed by statute. [25]

3 Trespass to the person no longer has any real significance in the law of tort.

Outline the elements of this form of trespass and discuss the extent to which you agree with this view. [25]

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Section B

4 During the Rugby World Cup final in Cardiff, disaster strikes as part of the stadium catches fire, and the match is abandoned as hundreds of spectators have to run on to the pitch to escape the fire and smoke. The fire is apparently caused by a lit cigarette discarded by a spectator entering the stadium which sets light to rubbish which has not been removed by the stadium's owners.

Jason is in the stadium for the match and fears that the fire might spread to where he is sitting. He becomes so upset by events that he goes missing and does not return home for 5 days.

Jason's friend, Lambert, is watching a live television broadcast of the match and fears for Jason's safety when he fails to return home afterwards.

When Jason does not return home, his wife Kyleigh is traumatised when she attends the mortuary to see if he is among those who died in the fire.

Jason, Kyleigh and Lambert are all diagnosed as suffering from various psychiatric problems which they attribute to that day's events. With reference to case law, advise the stadium owners regarding their liability in negligence towards each of them. [25]

5 David was the driver of a car that swerved to avoid a large deer that leapt into the road in front of him. Consequently his car collided with George's oncoming van. George sustained severe spine and head injuries and is now unable to work again and has to live on state benefits for the remainder of his life.

George commences proceedings in negligence against David pleading *res ipsa loquitur* (the facts speak for themselves). David responds by alleging that he had had to swerve to avoid the deer.

Consider the reported facts of the above case. Explain **(a)** how the plea of *res ipsa loquitur* and David's explanation might influence the proceedings in an action for negligence and **(b)** how damages might be assessed against David if he is found liable. [25]

6 National Power Generation (NPG) is the owner of a nuclear power station located on the coast of England. The processes used in the generation of electricity result in the on-site storage of radioactive fuel and contaminated by-products.

A considerable leak of radiation from the plant causes the need for all animals due to enter the food chain within a 100 km radius of the plant to be slaughtered. It also causes a significant number of people from the immediate area to contract cancer and die.

Consider NPG's potential legal liability to the owners of the slaughtered animals and to the next of kin of those who died in **each** of the following independent situations.

(a) The leak is caused when one of the nuclear reactors is damaged by a storm.

(b) The leak is caused by lack of maintenance of the reactor by NPG.

(c) The leak is caused when, despite good security measures, demonstrators against the use of nuclear power manage to break into the power station and cause damage to equipment that prevents radioactive emissions from the power station. [25]

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