UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW **9084/43**

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

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

4992206824

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 Analyse the protection offered by the tort of trespass to the person and critically assess its impact on the freedom of movement of the individual. [25]

2 Willing participants never suffer harm which is actionable in tort.

With reference to case law, critically analyse the extent to which the defence of *volenti non fit injuria* is an effective defence to actions brought in a variety of torts. [25]

3 Awards of damages in tort do not provide just remedies to all claimants in all circumstances.

Critically examine the truth of this view and the extent to which you agree. [25]

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Section B

4 Yves rents a house adjacent to property owned by Timber Products, a company that processes timber for the building industry. When he agrees to rent the house, he does not realise that the machinery which Timber Products uses to process wood is no more than 50 metres from the house as it is concealed by woodland.

Yves discovers that the machinery operates 7 days a week and the noise from it is so loud that he is unable to relax indoors or outdoors when he has time off work. Yves also suffers from asthma, which can make it difficult for him to breathe, and he finds that his condition worsens as a result of the inhalation of wood dust coming from the machinery.

Advise Timber Products as to their potential liability in the tort of nuisance. [25]

5 Contracts to keep cafes supplied with soft drinks require Harpsden Drinks to manufacture 24 hours per day, 7 days per week. The process requires a constant supply of water and electricity. While carrying out maintenance work at the pumping station nearby, workers from the company Pipe Menders damage a pump and cause the water supply to the factory to be cut for 15 hours.

Harpsden Drinks suffers three consequential losses: (i) the cost of the batch of cola in the process of production when the water supply was cut, (ii) the profit that would have been made on the sale of that batch of cola, and (iii) the loss of profit of additional batches of cola which would have been produced during the time when water was not available.

Critically assess the extent to which Harpsden Drinks might be compensated for the three losses for which it now claims. [25]

6 Loretta is involved in an accident on a building site when a fellow worker, Jobi, carelessly walks into a ladder on which Loretta is working and Loretta falls to the ground. Even though Loretta appears to have no obvious injuries, she goes to hospital for a check-up as a precaution. She has to wait several hours before she is examined superficially by a very busy doctor and sent home.

Several days later Loretta returns to the hospital as she is in severe discomfort. X-rays ordered by a second doctor reveal internal injuries and Loretta is admitted to the hospital, but before any operation is carried out she dies from internal bleeding. A post mortem examination reveals that the bleeding was so severe that Loretta was almost certain to die from her injuries, even if the problem had been diagnosed earlier.

Assess the potential liability in negligence for Loretta's death. [25]

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