Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/42**

Paper 4 Law of Tort **May/June 2016**

1 hour 30 minutes

No Additional Materials are required.

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READ THESE INSTRUCTIONS FIRST

An answer booklet is provided inside this question paper. You should follow the instructions on the front cover of the answer booklet. If you need additional answer paper ask the invigilator for a continuation booklet.

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

The number of marks is given in brackets [ ] at the end of each question or part question.

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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 It is impossible to eliminate the risk of the potential overcompensation or undercompensation of claimants.

Examine the courts' current approach to awards of damages in the tort of negligence and assess the validity of this statement. [25]

2 The imposition of vicarious liability is unfair and cannot be justified.

Explain and critically analyse the legal rules governing vicarious liability. [25]

3 It is reasonable to expect occupiers to owe a duty to persons other than visitors to their property.

Critically analyse this statement. [25]

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Section B

4 James owns a large building which is divided into apartments, each of which is leased to tenants. David has lived in the ground floor apartment for several years.

Recently a new tenant, Tom, has moved into the property above David. David regularly hosts late night noisy parties which have caused problems for Tom. He has been unable to sleep during the parties and the common areas of the building have been covered in rubbish discarded by the party guests.

Tom has complained to both James and David but the parties have continued. When the next party takes place, Tom goes into the basement and disconnects the electricity supply to David's apartment to stop the noise.

Advise Tom as to the potential claims and remedies arising from this situation. [25]

5 Sam's favourite soccer team, Barchester United, is playing in the cup final. He goes to the stadium on the day of the final but is unable to buy a ticket as they have all been sold. Sam is so keen to see the match that he tries to enter the stadium through an entrance which is used to deliver goods to the shops inside the stadium. Sam is seen by a security guard, Tariq, who stands in his way to prevent Sam from entering.

Sam is annoyed and pushes Tariq at which point three more security guards arrive. They surround Sam and Tariq tells him that if he does not apologise immediately they will break his legs. Sam apologises.

Tariq takes Sam to the stadium manager's office and tells him to wait until the manager is free to see him. Sam believes that he is locked in but in fact the office is unlocked. Several hours later the manager arrives and tells Sam that he is free to go.

Advise Sam and Tariq as to their respective rights and responsibilities in this situation. [25]

6 Zak is a truck driver for Quick Transport. He informs his manager that the driver's seat belt in his truck is faulty. His manager says he will get the problem fixed, but Zak will have to keep driving his truck as there are no others available.

The next day, while driving his truck, Zak is forced to brake suddenly. His seat belt does not restrain him and he is thrown forward into the windscreen.

Zak is taken to hospital where an inexperienced doctor in the emergency department examines him. He informs Zak that he has mild concussion and that if he takes a few days off work he should recover. However Zak loses consciousness that evening and is rushed back to hospital. He is examined by a different doctor who discovers that Zak has a serious brain injury.

Advise Zak as to his rights in this situation. [25]

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