Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/41**

Paper 4 Law of Tort **May/June 2017**

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 Explain and critically analyse the range of factors considered by the court when deciding whether or not a duty of care has been breached in negligence. [25]

2 The basis of the tort of trespass to land is an unlawful entry.

Assess the validity of this statement. [25]

3 The award of damages in tort involves a high level of uncertainty.

Explain and critically evaluate how damages in tort are assessed. [25]

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Section B

4 On Monday morning Bilal takes his car to be serviced in ABC Garage. A trainee mechanic carries out the service and makes a mistake when working on the brake cables. When driving home on Monday evening Bilal notices a problem with the brakes. He phones ABC Garage immediately and is told to return with the car on Wednesday morning and not to drive the car until then. However, on Tuesday morning Bilal drives to the shops. On the return journey a child walks onto the road ahead of Bilal. Bilal immediately applies the brakes but the car does not stop. He swerves to avoid the child and crashes into a wall. Bilal suffers broken ribs and a head injury and spends a week in hospital. The car is damaged beyond repair.

Discuss the potential liability of ABC Garage to Bilal in this situation. [25]

5 John has lived in the small village of Barchester for many years. Recently a large number of houses have been built and so the number of residents has increased significantly. John decides to set up a takeaway food business in the village. He buys a van from which he sells hot food from 18:00 to 21:00. There is a high demand so John increases the operating hours to open at 12:00 and close at 23:30.

Mary has lived in Barchester for over 20 years and suffers from a number of allergies. She believes that the smells from the food are aggravating her condition and last week she twice went to hospital with breathing difficulties.

Adam moved to Barchester five years ago. John is operating his takeaway business outside Adam's house. The noise from customers is keeping Adam awake at night.

Examine the rights of Adam and Mary and discuss any possible remedies which might be awarded by the court. [25]

6 XYZ is a busy 24-hour supermarket. The store manager notices a large spillage of lemonade on the floor. He instructs a member of staff to clean it up. They place a warning sign by the spillage and go to collect the cleaning materials which are kept at the other side of the supermarket. While the member of staff is away a child moves the warning sign out of sight.

Jasmine goes to the supermarket on her way home from work. She is running late and wants to do her shopping quickly. She runs into the store and does not notice the spillage of lemonade on the floor. Jasmine slips on it and falls, breaking her arm. Her watch, worth £1000, is damaged beyond repair.

Discuss the liability of XYZ to Jasmine in this situation. [25]

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