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 2018**

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.

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

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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 Describe and evaluate the elements which must be present to establish liability for a negligent misstatement. [25]

2 Describe the elements of the tort of *Rylands v Fletcher* and assess the extent to which it is a tort of strict liability. [25]

3 The defence of *volenti non fit injuria (consent)* will not apply merely because a claimant has knowledge of the existence of a risk.

Describe the elements of this defence and assess the extent to which the statement above is true. [25]

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Section B

4 Bill works in the same office as Dave and they have regularly played practical jokes on each other. Before Bill arrives at work one morning, Dave loosens the screws on Bill's office chair. When Bill sits on the chair it collapses and he falls to the ground, injuring his shoulder. Dave starts laughing and Bill shouts at him, saying that if he were not injured he would punch him.

Their manager, Tom, hears the shouting. When he realises what has happened he grabs Dave, pushes him into his office and tells him to stay there. Tom closes the door but does not lock it. He tells Sam, another staff member, to stand outside the office and to stop Dave if he tries to leave. After two hours Tom opens the office door and tells Dave to go home.

Discuss the potential liability of the parties for trespass to the person. [25]

5 John is employed to operate a crane (a large machine used to lift heavy loads) by ABC Ltd on a construction site in Barchester. John lifts a load which is too heavy for the crane and the load falls on a nearby wall, causing it to collapse. Bilal, the site manager, is trapped under the wall when it collapses.

Sanjeev, another employee on the site, sees the wall collapse and hears Bilal call for help. Sanjeev attempts to free Bilal. Bob, who works in a shop nearby, hears the wall collapse, rushes over to the site and starts to help.

Bilal is taken to hospital suffering from a broken leg and severe shock. Sanjeev and Bob are both traumatised by the event.

Advise the parties as to their liability in this situation. [25]

6 Nadia has bought a large house with a swimming pool. The property has not been used for many years and is in poor repair. The fence around the property has a large hole in it and Nadia has been told that local teenagers have been entering the property at night. Nadia puts up a sign on the fence stating 'Private property' and arranges for a contractor to repair the fence as soon as possible.

That evening, a group of boys climb through the fence. Dean, aged 14, is dared by the other boys to dive into the swimming pool which is uncovered and filled with water. He dives in and is injured when he stands on broken glass at the bottom of the pool. His clothes are also damaged as there is oil in the water.

Discuss the rights and responsibilities of the parties in this situation. [25]

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