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 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 the duty owed by an occupier to a lawful visitor and assess the extent to which liability can be avoided. [25]

2 Assess the extent to which it is justifiable to impose vicarious liability in the context of employment relationships. [25]

3 The test for establishing a duty of care is complex and uncertain.

Explain and evaluate the current test for establishing a duty of care in the tort of negligence. [25]

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Section B

4 Pierre, a self-employed taxi driver, was driving through Barchester town centre when he suddenly lost consciousness. His taxi hit another car and caused serious injury to the driver, Marie.

Pierre had an undiagnosed heart condition, which had caused the loss of consciousness. He had been experiencing minor chest pains for a few weeks but did not consult a doctor as he was worried about losing his taxi licence.

Yves witnessed the entire incident from his office across the road and is claiming that this has resulted in the recurrence of depression which he had experienced many years before.

Advise Pierre as to his potential liability to Marie and Yves. [25]

5 Geeta has operated a business making and supplying sauces to restaurants for the last 10 years. Due to a significant increase in demand she has now started to use larger vehicles for deliveries. She has also extended the working day by six hours so the business is now open until midnight, seven days a week.

Pedro has lived on the same street as Geeta's business for the past five years. He has recently complained to Geeta that the noise of the vehicles prevents him from sleeping and strong smells from the sauces stop him from enjoying the use of his garden. Geeta has ignored his complaints and is now allowing her employees to play loud music while they work.

Advise Geeta and Pedro as to their rights and any potential remedies in this situation. [25]

6 Paula and Jane are interested in local history. Henry gives them permission to visit an old castle on his land to take some photographs. They believe items of historical interest may be buried near the castle, so when Henry leaves them to look around, they start to dig a hole in the ground using small shovels they have brought with them.

When Henry returns, he is angry to see them digging on his land. He shouts at them to stop, threatening to hurt them if they do not. Henry grabs Paula to push her off his land. Jane hits Henry with her shovel so that Paula can get away. Jane and Paula then leave Henry's land. Henry's nose was broken in the incident.

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

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