Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/43**

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 Explain and critically analyse the factors which may be considered when deciding whether there has been a breach of duty in negligence. [25]

2 Whether the defendant's use of land is reasonable is the key issue when determining liability in private nuisance.

Assess the validity of this statement. [25]

3 Describe the elements of the duty imposed on an occupier in relation to a trespasser and assess the fairness of this duty. [25]

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Section B

4 ABC Engineering owns a factory at which all employees are supplied with safety glasses and instructed to wear them. The factory management is aware that most employees do not wear them as the glasses are uncomfortable.

Mark, an employee at the factory, is not wearing his safety glasses while working and sustains an eye injury when fragments of metal from the machine he is operating hit him in the face.

He is taken to hospital where a newly qualified doctor, Helen, removes a metal fragment from his eye and tells him to return in a week's time for a check-up. In fact, a more thorough examination would have revealed another fragment of metal was still lodged in Mark's eye. This results in an infection and Mark loses the sight in his eye.

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

5 Jake drives to the local shopping centre. In the car park he sees a vacant parking space. Another driver, Stefan, is approaching the same space from the opposite direction.

In order to get to the space first, Jake turns quickly in front of Stefan's car without indicating. Stefan is very angry and deliberately drives into the back of Jake's car. This causes Jake to hit his head on the steering wheel. Jake gets out of his car and shouts at Stefan that he is going to kill him.

Boris, a security guard at the shopping centre, arrives and stands behind Stefan's car to prevent him from reversing and leaving the scene.

Advise Jake, Stefan and Boris as to their potential liabilities in trespass to the person. [25]

6 Marie is a recently qualified financial advisor. Her friend, Ann, inherits some money and approaches Marie for investment advice. Marie advises her to invest all of the money in a company, ABC plc. Ann buys a significant number of shares and she also advises another friend John to do so. Had Marie properly researched ABC plc, she would have been aware that the company was in serious financial difficulty. Due to their financial situation, ABC plc later ceases to trade and Ann and John each lost all of their investment.

Advise Ann and John as to their rights in this situation. [25]

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