Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/42**

Paper 4 Law of Tort **May/June 2020**

1 hour 30 minutes

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You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions in total:
  - Answer **at least one question** from Section A.
  - Answer **at least one question** from Section B.
  - Answer **one other question** from **either** Section A **or** Section B.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [ ].

This document has **4** pages. Blank pages are indicated.

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Answer **at least one question** from Section A.
Answer **at least one question** from Section B.
Answer **one other question** from **either** Section A **or** Section B.

Section A

1 The aim of damages is to restore the claimant to the position that he or she would have been in if the tort had not occurred.

Explain the types of damages available in a claim for negligence. Assess the extent to which the aim above can be achieved. [25]

2 Explain the rules relating to remoteness of damage in negligence. Assess whether the current rules achieve justice for the parties. [25]

3 'The responsibility for the safety of little children must rest primarily upon the parents…' Lord Devlin. *Phipps v Rochester Corporation* [1955]

Explain the legal duty owed by an occupier towards a child visitor. Assess the validity of the statement above. [25]

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Section B

4 Jane is looking for a large commercial property to purchase for use as office space for 40 employees. She sees an advertisement for an auction to be held by AB Property (ABP). She looks at ABP's website and then visits its office to discuss her requirements.

Brian, ABP's senior auctioneer, recommends a particular property and provides Jane with a written document which contains full details of its dimensions. He had relied on measurements given by the current owner when compiling the document.

Jane attends the auction and purchases the property without viewing it. When she goes to the property, she finds that it is 30% smaller than stated in the document provided by ABP and therefore not big enough to accommodate her business.

Advise Jane, Brian and ABP as to their rights and responsibilities in negligence arising from this situation. [25]

5 Helen has operated a helicopter hire business from a small airfield for the last 10 years. Two years ago, Denis purchased a house close to the airfield.

In the last six months, Helen's business has grown. The hours of operation were 10:00 to 16:00 Monday to Friday. The business now operates 08:00 to 20:00 every day. The number of helicopters in use has increased from three to six.

Denis has complained to Helen on a number of occasions about the noise and vibrations of the helicopters throughout the day and evening. As Denis works from home he is finding the noise very disruptive. He is also concerned about the strong smell of aviation fuel and feels unable to continue growing vegetables in his garden due to the risk of soil contamination.

Advise Denis as to his rights and remedies in relation to private nuisance in this situation. [25]

6 Charles takes his 10-year-old son, Harry, to Thrillseekers theme park. The park has recently opened a new ride and advertises it as the biggest of its kind and restricted to riders aged 12 and over.

When they are getting on the ride, the operator, William, asks Harry's age. Charles says that Harry is 12 years old. William allows them on the ride but does not check that the safety harnesses have been secured once they are seated.

During the ride, Harry's harness suddenly opens and he is thrown to the ground. He sustains serious injuries. Jane, a nurse, also visiting the park, rushes to assist and treats Harry until the ambulance arrives. Charles calls his wife, Fiona, as he accompanies Harry in the ambulance, telling her that their son is badly injured. Fiona arrives just as Harry is brought in to the hospital.

Jane is severely traumatised by the incident and is unable to work. Harry has to be treated in hospital for several months and Fiona has been diagnosed with depression.

Advise the parties as to their rights and responsibilities in negligence. [25]

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