Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/43**

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

1 hour 30 minutes

0727838074

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 In claims for negligence resulting in nervous shock it is necessary to have rules which restrict the number of potential claimants.

Explain the rules governing recovery of damages for nervous shock. Assess the validity of the statement above. [25]

2 The rule in *Rylands v Fletcher* [1868] is no longer necessary in the modern law of tort.

Explain the elements of the rule and assess the validity of the statement above. [25]

3 Explain the elements of the defence of *volenti non fit injuria* (consent) and assess whether it is of limited application. [25]

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Section B

4 Neil and John are neighbours. Neil is a keen gardener and is very proud of his plants and flowers. He has cultivated a number of trees next to the fence between the properties. Some branches hang over the fence and John has asked Neil to cut them because they are overgrowing his flowerbeds. Neil has refused as he believes that the branches are not causing any harm. John cuts the branches himself. Neil is angry because it ruins the appearance of his trees.

John's teenage son, Kyle, regularly has friends around to play football in the garden. This has annoyed Neil because of the noise and the damage caused to his flowers by footballs kicked over the fence. Recently, he has refused to return any footballs, so Kyle has been climbing over the fence to retrieve them himself.

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

5 Liz, an elderly woman, boards a bus operated by Speedy Buses. The driver, Philip, is aware that he is behind schedule and is concerned that he will be in trouble with his manager for this.

Philip pulls away from the bus stop very quickly before Liz is able to reach a seat and the sudden movement causes her to fall. Philip stops the bus and calls an ambulance as Liz is unable to stand up.

At the local hospital, Liz is examined by Dr Jones, a newly qualified doctor. He quickly examines her and tells her she has only sustained minor bruising to her leg. He gives her pain-relief medication and sends her home.

Liz returns to the hospital a few days later because she is in severe pain. Another doctor examines her and discovers a severe infection in her leg which is too advanced to be treated. As a result, Liz has her leg amputated.

Advise the parties as to their rights and liabilities in this situation. [25]

6 Keira drives to a large shopping mall operated by ABC Ltd. It is very busy and she has difficulty finding a space to park. She finally parks in the section furthest away from the mall.

There is only one paved walkway between the parking area and the mall. To save time, Keira decides to follow some other shoppers taking a shorter route through a sloping area covered in grass. The grass is wet and Keira is wearing footwear unsuitable for such a surface. She slips and falls, breaking her wrist and damaging her expensive watch.

ABC is aware that customers are using the shortcut but has failed to take any action.

Advise the parties as to their rights and responsibilities under the Occupiers' Liability Acts. [25]

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