Cambridge Assessment International Education

# Cambridge International AS & A Level

**LAW** **9084/43**

Paper 4 Law of Tort **May/June 2021**

**1 hour 30 minutes**

*7539881016*

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. Any 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** Describe the test for establishing a duty of care in negligence. Assess the extent to which policy considerations are relevant when a court is deciding whether a duty of care exists. [25]

**2** Describe the purpose of compensatory damages in tort. Assess the extent to which the award of compensatory damages can provide justice to the parties. [25]

**3** It is neither fair nor just that an occupier should be responsible for harm sustained by a trespasser.

Describe the duty owed by an occupier under the Occupier's Liability Act 1984 and assess the validity of the statement above. [25]

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## Section B

**4** Reema works in a factory, owned by ABC Ltd, which manufactures chocolate bars. She operates a new machine which produces 100 bars per minute. Her colleague Tariq works on the other side of the machine, packing the chocolate bars into boxes.

On the first day of operation, Reema hears Tariq shouting out to stop the machine. Reema switches it off and runs over to Tariq. His hand is badly cut and he has lost consciousness. Tariq had tried to clear a blockage by hand while the machine was still operating. ABC Ltd has not yet installed a safety guard to restrict access to the machine, although employees have been given clear instructions to stop the machine before clearing blockages.

Tariq has now lost the use of his hand and has been diagnosed with post-traumatic stress disorder. Reema has been unable to work since the incident and is under medical care for depression.

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

**5** Liz has lived in an apartment in Barchester for 25 years. Ken has recently moved into an apartment directly below hers. Ken runs a business from his home, buying and upgrading computers which he then sells online.

Ken has deliveries and collections by courier throughout the day and the couriers often ring Liz's doorbell instead of Ken's. Liz has complained to Ken but he has told her that this is the fault of the couriers and not his concern.

Ken also likes to listen to music while working and plays it loudly from 07:00 to 18:00. Liz has told Ken that the loud music is waking her up in the mornings. In response he starts playing music at 06:00.

Advise the parties as to their rights, responsibilities and remedies in relation to private nuisance. [25]

**6** Pierre is a student at Barchester University. He is late for an important lecture. When he arrives at the bus stop there is a very long queue of people waiting. Vincent is first in the queue. Pierre walks in front of him as the bus arrives. Vincent is annoyed by Pierre's behaviour and shouts at him to get to the back of the queue or he will 'make him sorry'. Pierre pushes Vincent out of the way and gets on the bus. As a result, Vincent falls and knocks Yvonne to the ground. She sustains a broken arm. At this point the bus driver, Samira, closes the doors and she tells Pierre he cannot leave the bus until the police arrive.

Advise the parties as to their rights and responsibilities in relation to trespass to the person. [25]

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