Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/41**

Paper 4 Law of Tort **May/June 2022**

1 hour 30 minutes

6918033410

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.

© UCLES 2022

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 Compare and contrast the defences of *volenti non fit injuria* (voluntary assumption of risk) and contributory negligence. [25]

2 Describe the elements of battery, in relation to the tort of trespass to the person. Assess the extent to which hostility is a necessary element of battery. [25]

3 Describe the duty owed to a visitor under the Occupiers' Liability Act 1957. Assess the extent to which an occupier can avoid liability through the use of warnings and exclusion clauses. [25]

© UCLES 2022

Section B

4 John, a 14 year old boy, is a member of a football club. During a training session he is seriously injured when the goal post falls and hits him. The club's management had previously been made aware that the goal post was unstable but had not taken any action.

John's parents, Ian and Margaret, receive a telephone call informing them that their son is seriously injured and that an ambulance has been called. Ian and Margaret arrive at the football club just as the ambulance is leaving. They follow the ambulance to the hospital. Margaret briefly sees John, clearly badly injured, as he is taken out of the ambulance. John undergoes an emergency operation and is unconscious for five days. Ian and Margaret sit at his bedside for the whole time. John regains consciousness but spends a year in recovery.

Ian and Margaret have both been diagnosed with post-traumatic stress disorder (PTSD).

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

5 Several years ago Pablo purchased a luxury apartment on the tenth floor of a building in the city centre, next to an art gallery. His apartment has floor to ceiling windows. He has never used any form of window covering as it was not necessary due to the location of the apartment.

The gallery has recently added a viewing platform on the top floor so that visitors can experience the views over the city. The viewing platform is also available for hire and is used in the evenings for social events.

Pablo is concerned that the visitors on the viewing platform can now see into his apartment. He is also finding the social events disruptive as they happen several nights a week with large numbers of guests. These events often continue after midnight with loud music and sometimes flashing lights. Pablo complains but the gallery management tells him that the viewing platform and events are essential to its finances and continued existence.

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

6 Ezra works as a junior programmer for a software development company, AB Ltd (AB). He applies for a senior role with another company, DC Ltd (DC). DC contacts AB for an employment reference for Ezra to indicate his suitability for the role. His manager, Susan, has only worked for AB for a short time. She writes a very positive reference for Ezra. She does not check his work records and therefore is not aware that he has a poor attendance record and has been given a number of warnings about the quality of his work, by a previous manager.

Ezra starts work for DC. He is given responsibility for a valuable project, to provide a new software package for a hospital. Due to his poor attendance at work and errors in the software, the project is not completed on time and DC loses £1 million as a result.

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

© UCLES 2022

BLANK PAGE

Permission to reproduce items where third-party owned material protected by copyright is included has been sought and cleared where possible. Every reasonable effort has been made by the publisher (UCLES) to trace copyright holders, but if any items requiring clearance have unwittingly been included, the publisher will be pleased to make amends at the earliest possible opportunity.

To avoid the issue of disclosure of answer-related information to candidates, all copyright acknowledgements are reproduced online in the Cambridge Assessment International Education Copyright Acknowledgements Booklet. This is produced for each series of examinations and is freely available to download at www.cambridgeinternational.org after the live examination series.

Cambridge Assessment International Education is part of Cambridge Assessment. Cambridge Assessment is the brand name of the University of Cambridge Local Examinations Syndicate (UCLES), which is a department of the University of Cambridge.

© UCLES 2022