UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW **9084/41**

Paper 4 Law of Tort **October/November 2012**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

8529131237

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

At the end of the examination, fasten all your work securely together.
The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **3** printed pages and **1** blank page.

© UCLES 2012

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 According to s37 Supreme Court Act 1981, judges may only award an injunction as a remedy when it is considered just and convenient to do so.

Using example cases, critically analyse the circumstances under which injunctions have been awarded as remedies in the law of tort. [25]

2 The Occupiers' Liability Acts 1957 and 1984 seek to ensure that the interests of the occupiers of land never completely override the rights of people who enter their land.

Discuss this statement and debate the extent to which the legislation achieves what it set out to do. [25]

3 In negligence cases it is the court's aim to compensate the innocent victims of the tort.

Critically assess the extent to which the application of rules relating to causation and remoteness in decided cases has impacted on this aim. [25]

© UCLES 2012

Section B

4 Snuff & Co has a factory located next to a housing estate which was built for workers at the factory. Fumes and smoke from the factory often blow across the estate. As a consequence, local residents frequently find that they have to keep their windows closed even during the heat of the summer months.

Bill and Ted are elderly residents of the estate who suffer from breathing problems and their health has deteriorated considerably because of many years' exposure to air pollution from the factory.

Snuff & Co has tried to encourage the smoke and fumes to travel away from the estate, but the measures taken resulted in interference with mobile (cell) phone reception in the area. A group of local residents has made numerous complaints.

Assess the likely success of any claims in the tort of private nuisance brought against Snuff & Co. [25]

5 Nadia is undergoing treatment for a rare brain condition at the Royal Barsetshire Hospital. The condition shows no sign of improvement and Haroon, a consultant at the hospital, suggests that they try new medication.

Haroon has read reports from early trials of this medication that it has led to severe depression in some patients but the evidence is not conclusive. He decides not to warn Nadia of the risk and she agrees to try the medication.

Some days into the new treatment she starts to experience depression. When she is left alone in her hospital room, she opens the window and jumps 15 metres to the ground below. She suffers serious head injuries and subsequently dies.

When her parents are informed, her mother Esther suffers a severe psychiatric reaction.

Consider the potential liability of Haroon and the hospital for Nadia's death and Esther's subsequent illness. [25]

6 Moody is a stockbroker. He is at a dinner party one evening and the guests start to talk about investments. Moody says that the feeling in the stockmarket is that the value of shares is about to rise. He also says that he has heard that the football club Melchester City is about to be taken over by a member of a Middle Eastern royal family and that purchase of the club's shares would be a good investment.

Harrison is another guest at the dinner party and, realising that Moody is an expert, he buys shares in Melchester City. However the takeover of the football club does not happen and its share price falls. Harrison gets worried and sells his shares at a loss of £20 000.

Discuss whether Harrison can hold Moody liable for the poor advice which ultimately led to him losing money. [25]

© UCLES 2012

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.

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

© UCLES 2012