UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW **9084/42**

Paper 4 Law of Tort **October/November 2013**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

9897670046

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 2013

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 Critically analyse the extent to which the Occupiers' Liability Acts 1957 and 1984 achieve an appropriate balance between the interests of occupiers of land and those of people who enter their land. [25]

2 A principal aim of an award of damages in tort is to compensate a victim in full (*restitutio in integrum*).

Assess the extent to which the courts have been able to achieve this aim. [25]

3 Unauthorised entry to another's land without permission is never justifiable and is actionable *per se*.

Critically assess the extent to which you agree with this view of the tort of trespass to land. [25]

© UCLES 2013

Section B

4 Solid Build is contracted to construct a new City Hall for Birmingham City Council and has agreed to complete the work by 1 December.

While Solid Build carries out the groundwork in preparation for building to start, mains water pipes are broken and a number of city centre businesses have to close for several days until water supplies can be restored to them. Solid Build did obtain maps showing all the underground services in the area (gas, electricity, water and telephone), but the mains water pipes that were damaged were not marked on them.

The project gets more and more delayed and costs begin to rise steeply. Solid Build decides to bring in bigger construction machinery than planned in order to get the job finished more quickly and make savings. Unfortunately, the new machinery is much noisier. The increased noise levels cause Gina, who works from home in a block of apartments adjacent to the building site, to suffer almost permanent stress headaches.

When vital safety equipment fails to arrive on site on schedule, Stan, who is employed by Solid Build, agrees to carry out high level scaffold erection work without having the equipment to protect himself because he fears that he will be dismissed if he refuses to do so. Stan falls whilst doing the work and sustains multiple fractures.

What **general defences** in tort might Solid Build raise against actions brought by the city centre businesses, Gina and Stan? With reference to decided cases, discuss the likely success or failure of those defences. [25]

5 A driver working for City Buses fails to stop his Number 52 bus at a red traffic light at a major city centre crossroads. As a result, the bus collides with a coach full of passengers. Many passengers on both vehicles are trapped and injured.

Anita, a pregnant lady, is a passenger on the bus and, although not injured in the accident, she suffers a miscarriage a few days later and her unborn baby dies.

Bethan is waiting to cross the road at the point that the accident happens and immediately tries to help passengers from the coach to safety. Unfortunately, the coach catches fire and she suffers severe burns to most of her body.

Corinne's partner always travels to work on the Number 52 bus route. She hears a local radio newsflash about the crash and, as the accident has occurred at precisely the time when her partner would be travelling home, she assumes the worst. She is of a nervous disposition and the shock of the news triggers a psychiatric illness.

Assess City Buses' potential liability in negligence in each of the situations above. What is the likelihood of any defences being successfully raised? [25]

6 Sameera is an inexperienced collector of antique furniture. She has little idea of the value of items and is always afraid that she will pay too much for them.

Tanya has run antiques businesses for many years. Sameera asks Tanya if she will accompany her to a local sale room and value a number of items that she likes.

Following Tanya's valuation of £2000 for a Regency table, Sameera pays the seller's asking price of £1000 for it. Sameera now discovers that Tanya's valuation was optimistic; the table is a fake and thus practically worthless.

Discuss Tanya's potential liability in tort for the financial loss sustained by Sameera. [25]

© UCLES 2013

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 2013