Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/41**

Paper 4 Law of Tort **October/November 2015**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

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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, 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.

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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 The issue of fault is not relevant in determining liability under the tort of *Rylands v Fletcher*.

Outline the elements of this tort and critically analyse the above statement. [25]

2 Trespass to the person is no longer necessary as the tort of negligence provides a satisfactory means of recovery for claimants.

Critically assess this view. [25]

3 It is unfair to impose liability in tort on one person for the actions of another.

Critically analyse the principle of vicarious liability and consider whether its use is justifiable. [25]

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Section B

4 Tania is training for a marathon and runs in a park which is owned by Barton Town Council. Tania frequently encounters problems running in the park as the path is in poor condition. She suffers a wrist injury when she falls due to the uneven surface.

On one of her training runs Tania explores a small track leading into a wooded area of the park. She runs for a short time and then finds that the track is quite overgrown and it is difficult to run further. She notices a clearing ahead and climbs over the remains of a fence on to land belonging to George. She continues her run but breaks her leg when she falls into a well, which has been inadequately covered.

George had placed a sign stating 'Danger – Keep Out' where the track from the park adjoined his property. However the sign had fallen down and was not visible.

Advise Tania as to her potential claims against Barton Town Council and George. [25]

5 Alvin is a student musician who converts his garden shed into a recording studio. Lack of money means that he is unable to soundproof the studio. Alvin often works in the studio until 2am causing Len, who lives in the adjoining house, to complain.

Alvin ignores Len's complaints. Len responds by lighting bonfires in his garden whenever Alvin works late in his studio. The smoke from the bonfires makes it difficult for Alvin to work in the studio and triggers asthma attacks.

Advise Alvin and Len as to their rights and responsibilities in this situation, and consider what remedies might be awarded by the court. [25]

6 Olga is a school teacher. She organises a class trip for 12 students to the local sailing centre owned and operated by Mike. Having failed to check the weather forecast, Mike gets the students on to the boat and tells them to remain seated at all times. Once the boat has set sail, one of the students, Nigel, decides to move up the boat to sit near his friends. He falls and breaks his arm.

The weather becomes stormy and Mike decides to turn back. When the boat is close to shore it overturns. The students swim to shore, but Nigel struggles in the water because of his injury. Seeing him in trouble, Olga dives in and rescues him.

Olga has been unable to return to work as she is anxious and experiencing panic attacks.

Advise Olga, Nigel and the other students as to the likely success of an action in negligence against Mike. [25]

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