Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/42**

Paper 4 Law of Tort **October/November 2016**

1 hour 30 minutes

No Additional Materials are required.

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READ THESE INSTRUCTIONS FIRST

An answer booklet is provided inside this question paper. You should follow the instructions on the front cover of the answer booklet. If you need additional answer paper ask the invigilator for a continuation booklet.

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

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 rule in *Rylands v Fletcher* [1868] is no longer necessary as an action is generally possible in private nuisance.

Assess the validity of this statement. [25]

2 The distinction between claims for physical damage and for pure economic loss in the tort of negligence is an artificial one which causes unjust results for claimants.

Critically analyse this statement, with reference to case law. [25]

3 The defence of *volenti non fit injuria* (consent) requires both knowledge and a full understanding of the nature of the risk of harm.

With reference to decided cases, evaluate this statement. [25]

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Section B

4 Samir attends a local college and usually drives his friend Talvin there each day. On one journey Talvin opens the car window, shouts and throws an empty bottle at a group of students waiting for a bus. The bottle shatters on the road and a piece of glass hits a passer-by, Maureen, in the face.

Maureen is taken to hospital where a piece of glass is found lodged very close to her right eye. The glass is surgically removed by an inexperienced doctor, Joanne. It is the first operation of this type that she has ever performed and results in the loss of sight in Maureen's eye.

Advise Maureen as to the potential liability of Samir, Talvin and Joanne. [25]

5 Pierre is walking from his office to an important meeting unaware that a large protest march is taking place in the city that day. When he is about to cross a bridge, a police officer tells him that he must find a different route to his destination.

Pierre realises that he will be late for his meeting so he starts to run. In his hurry he collides with Yvonne who suffers a broken arm when she falls to the ground. Yvonne's husband Giles confronts Pierre and tells him that he is calling the police and that if he moves he will hit him. Pierre attempts to get past Giles who punches him, breaking his nose.

Advise Pierre as to his rights and responsibilities arising from this event. [25]

6 Quickbuild is in the process of constructing a number of houses. The site is located adjacent to existing houses in which a lot of young families live.

Quickbuild has erected a large fence around the site and put signs up stating 'Danger – Keep Out!' However gaps have appeared in the fence and on a number of occasions children have been observed entering the site. The fence is always repaired although it often takes a few days. Quickbuild has also sent a letter to every house near the construction site asking parents to ensure that their children do not enter the site.

Delowar, aged 12, has been told not to go to the site by his parents. However while his parents are at work he enters through a gap in the fence with a group of his friends. While playing they see the site manager approach. They run, but Delowar trips and falls into a deep hole in the ground suffering a serious injury.

Jamil, an adult, is also injured when he enters the site at night, looking for wood to use for building a garden shed. He trips over some tools which have been left on the ground, breaking his ankle and ripping his expensive leather jacket.

Advise Delowar and Jamil as to their potential claims against Quickbuild. [25]

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