Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/41**

Paper 4 Law of Tort **October/November 2020**

1 hour 30 minutes

3219891594

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. Blank pages are indicated.

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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 Describe the factors considered by the court when deciding whether a duty of care should be imposed for a negligent misstatement. Assess the effectiveness of these factors. [25]

2 Different levels of protection should be afforded to certain categories of visitor in the context of the Occupiers' Liability Act 1957.

Describe the duty owed to visitors and assess the validity of the statement above. [25]

3 Explain the defence of contributory negligence and assess whether it achieves fairness between claimants and defendants. [25]

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Section B

4 John has worked for AB Paints Ltd (ABP) for over 20 years. He has recently been diagnosed with a rare and serious illness. He believes that this may have been caused by exposure to a specific chemical used in the manufacturing process.

His doctor has informed John that there was significant research published 10 years ago connecting this chemical to the type of illness with which he has been diagnosed. John is now unable to work and is facing very significant costs for his medical treatment. He believes that ABP has been aware of the risks highlighted by the research since its publication.

John's colleague, Bill, has also worked for ABP for 20 years. He has not been diagnosed with any physical condition but he has been unable to work since John's diagnosis. He is depressed due to the worry that he too may develop this illness.

Advise the parties as to their rights and liabilities in relation to negligence in this situation. [25]

5 Steve attends the annual Barchester firework display with a group of classmates from his college course. One of the group, Alan, brings some small fireworks of his own. During the display, Alan ignites one of these fireworks and throws it at the group to frighten them. As the firework is about to hit Steve, he deflects it but it then hits a bystander, Megan, and causes her serious injuries when it explodes.

Megan's husband, Ian, believes that Steve threw the firework. He shouts at Steve that he will kill him for what he has done. As Ian approaches him, Steve runs away but finds his path blocked by a number of security guards.

Advise the parties as to their rights and liabilities in relation to trespass to the person in this situation. [25]

6 Tadgh has lived in a small village for many years. He works from home as an artist. The house next door was recently purchased by Dr Smith. She and her family have moved in and she operates a medical clinic from the ground floor.

The clinic is very busy and Tadgh is finding it difficult to concentrate on his work due to the noise of patients and their vehicles arriving at and leaving the clinic. On a number of occasions, patients have parked on his driveway. He has asked Dr Smith to address these issues but nothing has changed.

Last week, Dr Smith hosted a party for her daughter's 18th birthday. There was a band playing loud music with a lightshow in the garden. Tadgh complained about the noise at 23:30 but the loud music and the party continued until 04:00.

The day after the party, Tadgh purchased a drum kit and is now practising for several hours every day. Dr Smith has asked him to stop as it is interfering with the work of the clinic but Tadgh has ignored her request.

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

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