

UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Subsidiary Level and Advanced Level

LAW

9084/04

Paper 4 Law of Tort

May/June 2004

Additional Materials: Answer Booklet/Paper

1 hour 30 minutes

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 on both sides of the paper.
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.



Answer **three** questions, at least **one** of which must be from **Section A** and **one** from **Section B**.

Section A

- 1 'Considering that compensation is generally seen to be its most important function, the law of negligence is remarkably inefficient in this area and, in practice, only a small proportion of victims of harm get compensation for it.' (Elliott and Quinn: Tort Law, 1999.)

Critically assess the extent to which this view can be substantiated. [25]

- 2 A Law Commission report published in 1998 argued that the current rules on compensation for secondary victims suffering nervous shock are too restrictive.

Outline the current rules relating to secondary victims and evaluate their usefulness in the light of case law decisions. [25]

- 3 'To one who is willing, no (actionable) harm can be done'.

Consider the extent to which this is a defence to actions based in the law of tort. [25]

Section B

- 4 Shifting Sands Ltd runs a sand and gravel business in Wales. At the entrance to each company depot there are very clear notices warning those who enter about the dangers of entry to the premises and stating that the company will accept no liability for injury to visitors or for damage to their possessions.

Amir is a buyer who works for a building firm and makes regular visits to the depots in order to assess the quality of the products before placing orders for materials. During one of his visits, Amir is badly injured when he trips over a broken step.

Billy, a ten year old, enters one of the depots after working hours through a hole in the fence. The company is aware that children use the depot as a playground but has failed to prevent their entry. Billy ignores the warning notices and is killed when the pile of sand on which he is playing slips and 'buries him alive'.

Discuss, using decided cases to support your arguments, the potential liability in tort that Shifting Sands Ltd may have for the two incidents. [25]

- 5 Wang Lin plays for his local soccer team, the Hammers. The evening before a match against rivals, the Saints, Wang Lin is having a drink with his girlfriend in a local bar when he meets Zhang Liu, a Saints player. Zhang Liu begins to taunt Wang Lin about the forthcoming match and how the Saints are going to beat the Hammers. They have a heated argument. During the match the following day, Zhang Liu breaks Wang Lin's leg in a fierce tackle for the ball. Wang Lin is self-employed and is consequently unable to work for ten weeks at a personal loss amounting to £2000.

Consider Zhang Liu's potential liability in tort towards Wang Lin. [25]

- 6 Jean-Paul and Pierre live in adjacent houses. Pierre's garden is very small and during the summer is in the constant shade of an enormous tree growing in Jean-Paul's garden. Some of the tree's branches overhang the fence separating the two gardens. This has annoyed Pierre for several years, as each summer he is unable to sunbathe in his garden. One day he chops off the overhanging branches and throws the branches over the fence into Jean-Paul's garden together with other garden rubbish that he wishes to dispose of.

Discuss the potential liability in tort of both parties involved. [25]

