



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Level

LAW

9084/41

Paper 4 Law of Tort

May/June 2011

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

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.



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 Consent to risk is fundamentally different from knowledge of risk.

Using appropriate case law to illustrate your answer, critically analyse the above statement with regard to defences in tort. [25]

- 2 Either the tort of trespass to land or private nuisance could be abolished without significant loss to society because each overlaps with the other.

Analyse the two torts and critically assess the extent to which the above statement is true. [25]

- 3 The remedy of damages in tort is based on the principle that the victims of tort should be restored to the position they would have been in had the tort not occurred.

Using examples from case law to support your views, assess the extent to which this aim is achieved. [25]

Section B

- 4 Zaheer is a window cleaner. He is cleaning windows at Jamel's house when, without looking where he is going, Jamel walks into the ladder on which Zaheer is standing and it falls over. Zaheer's head hits the ground as he falls from the ladder and he has to be taken to hospital.

When he arrives at the hospital he is not attended to for several hours, because the hospital has insufficient staff on duty. He is eventually examined, given an X-ray and then sent home from the hospital following a very hurried examination.

Several days later, suffering from headaches and still confused, Zaheer returns to the hospital and is given a second X-ray which reveals a blood clot on his brain. He is admitted to the hospital and operated upon immediately but he fails to recover and subsequently dies.

Advise Jamel and the hospital regarding their possible liability in tort for Zaheer's death. [25]

- 5 Cameron has been repairing the surfaces of pedestrian areas in High Street. It has been raining and, in his haste to get the work done quickly and get home out of the rain, Cameron fails to level off the new paving that he has been laying. He also fails to erect any warnings of the danger.

On his way home from work after dark, Johnson rides his bicycle along the pedestrian area to keep away from the busy traffic on the road. His bicycle has no lights and he does not wear a cycling helmet. As Johnson reaches the part which Cameron had been repairing, his bicycle wheel hits the uneven surface and Johnson falls to the ground. He fractures his wrist and is severely bruised as a result of his fall.

Taking care to consider appropriate defences that might be raised, consider the potential liability of Cameron in the tort of negligence for the injuries sustained by Johnson in the situation above. [25]

- 6 Malik lives in a house adjacent to a public park where children play ball-games. Balls often get kicked or thrown into his garden from the park and children frequently knock on his door to ask if they can have their ball returned. He also suspects that when he is not at home, the children simply climb over a wall at the bottom of his garden in order to retrieve their balls. He is rather concerned because he has a pond in the garden in which he keeps flesh-eating piranha fish as pets. In order to prevent possible accident, however, he covers the pond with wire mesh.

One day when Malik is not at home, Arbuckle, a ten year old boy, climbs into the garden to retrieve a football which has landed on the wire mesh covering the pond. In trying to get hold of the football, Arbuckle falls, the wire mesh gives way and Arbuckle sustains severe injuries when he falls into the pond and is attacked by the fish.

Advise Malik of his liability under the Occupier's Liability Acts 1957 and 1984 for the injuries sustained by Arbuckle following the above incident. [25]

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