



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW

9084/42

Paper 4 Law of Tort

October/November 2009

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 The basic principle exists in tort that wrongdoers should be liable for their own actions.
Discuss the reasons why vicarious liability is sometimes imposed on others. [25]

- 2 It has been said that although negligence involves liability to one's legal neighbours, it is the tort of private nuisance that deals with liability to one's physical neighbours.
Compare and contrast the nature of liability for these two torts. [25]

- 3 Harm suffered by the willing participant in any situation is not actionable in tort.
Referring to case law, analyse the extent to which the defence of *volenti fit injuria* (to a willing person, no injury is done) operates as a defence to actions brought in the torts of negligence and trespass to the person. [25]

Section B

- 4 Penny Royal Sawmill Ltd is a timber business, supplying commercial and private customers. At the entrance to its premises there are very clear notices warning those who enter about the dangers likely to be encountered on the premises and stating that the company accepts no liability for damage or injuries to visitors or their possessions.

Alan, a local builder, is a regular customer. One day he visits the premises to collect a load of fencing materials and his pick-up truck is damaged when one of the sawmill's drivers reverses a vehicle into it.

After the premises have been closed for the weekend, Peter and some friends, all aged eleven, enter the premises through a hole in the fence. The boys are playing on the piles of logs when one of them dislodges a pile and it starts to collapse. Peter gets 'buried alive' by the logs and sustains multiple injuries to his head and limbs.

With reference to case law, discuss any legal liability Penny Royal Sawmill Ltd might have, as occupier of the premises, for the damage to Alan's pick-up and for Peter's injuries. [25]

- 5 Fawltly Towers Theme Park is located on the outskirts of London and is surrounded by suburban housing estates.

The theme park comprises numerous rides, thrills and experiences for visitors.

On one occasion, an accident occurs. An 'aeroplane' from the Red Arrows ride becomes detached from the main assembly while it is in motion, flies over the park's perimeter fence and crashes through the window of Layla's house, causing much damage to the house. Fortunately, there was no-one in the 'aeroplane' nor in the house at the time.

Consider whether Layla would be best advised to base any legal action in either the tort in *Rylands v Fletcher* or in the tort of negligence. If action is taken, discuss the theme park's potential liability for the damage caused. [25]

- 6 A driver working for Mainline Trains Ltd fails to notice a warning signal at the side of the track, fails to stop the train as he should have done and causes a collision with a train coming in the other direction. Many passengers are killed or seriously injured and the drivers of both trains die instantly.

Tristan is standing on a bridge over the railway when the accident happens. He runs immediately to help passengers to safety but suffers severe burns when fire suddenly sweeps through the wreckage.

Isolde is watching a news bulletin on television when she thinks that she sees her husband being carried away from the wreckage. Isolde is pregnant and, believing that her husband might be dead, she suffers nervous shock and miscarries (loses) her baby.

Consider the potential liability in the tort of negligence of Mainline Trains Ltd and the likely success of any defences that might be raised against Tristan and Isolde should they choose to sue. [25]

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