

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

LAW

9084/04

Paper 4 Law of Tort

October/November 2005

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.



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 tort in Rylands v Fletcher continues to fill necessary gaps in other torts.'

Critically assess the validity of this statement today. [25]

- 2 'The rules of causation and remoteness of damage aim to compensate claimants for loss and injury arising from a defendant's negligence.'

Using case law examples to support your views, analyse the extent to which this aim is met in England & Wales. [25]

- 3 'Vicarious liability conflicts with the basic principle in tort that wrongdoers should be liable for their own actions.'

Evaluate the reasons why such liability is imposed. [25]

Section B

- 4 Natalie and Oliver are twins, aged 4, who are looked after by a 19 year-old nanny called Jessica. Jessica, who has no licence to drive on the public highway, takes the two children for a car-ride around the farm on which they all live. Jessica negligently steers the car off the farm track, down a bank and into a deep pond. The three occupants of the car would almost certainly have drowned, but for the heroics of Marvin, a farm-worker, who sees the entire incident and dives in to release them from the car. Oliver is already dead when he is brought out of the water; Natalie and Jessica survive the ordeal. The twins' mother is informed of Oliver's death and she suffers immediate and grievous shock. Marvin suffers a nervous breakdown as a consequence of failing to save Oliver.

Taking care to discuss any defences that she might successfully raise against either of them, advise Jessica of her potential liability in negligence for the losses suffered, (a) by Natalie's mother and (b) by Marvin. [25]

- 5 Al Shakfeh Engineering Company have been engaged to construct a new building in the Sultanate of Jumbai. It is planned to be the highest building in the world and is being built to commemorate the Sultanate's bicentenary.

While the foundations of the building are being excavated and prepared, main power supply cables are severed and the nearby Motor Tyre Factory is unable to operate for two days until power to them is restored. Before starting the work, Al Shakfeh Engineering Company obtained plans showing cabling under the site, but the main power supply cables in question did not appear on them.

Mustafa works for Al Shakfeh Engineering Company and is instructed to tunnel underground which is known to be dangerous. Mustafa agrees to participate, even though he knows that he has not been supplied with suitable equipment to safeguard himself. Mustafa falls and badly injures himself.

The project begins to run behind schedule and to exceed its cost budget. In order to make savings, Al Shakfeh Engineering Company bring in construction machinery that is significantly noisier than planned. This impacts badly on Jamel, who lives next to the building site. He is unable to sleep day or night for a number of weeks because of the noise.

Identify what general defences in tort that might be raised by Al Shakfeh Engineering Company in each of these incidents and, with reference to decided cases, discuss their likely success or failure. [25]

- 6 Anastasia and Elena are rival members of their college tennis team and are due to play one another in the tournament final. Anastasia has never beaten Elena and, convinced that she will lose to her yet again this time, plots how to prevent her from winning.

Anastasia and Nikita plot how to prevent Elena from turning up for the match. Nikita, who is in the same college class as Elena, invites her to spend the evening with him in order to stop her getting nervous about the big match. Elena visits his house for dinner and while she is there, Nikita locks her into a toilet and refuses to let her out. Fortunately, Elena is able to escape through a small window.

The match takes place the next day and Anastasia loses her temper as she starts to lose. She abuses and threatens Elena verbally and finally, she deliberately hits balls at Elena, who is hit several times. At the end of the match, Elena retaliates by striking Anastasia with her tennis racket.

Using case law to support your views, assess the possible liability in the tort of trespass of Anastasia, Nikita and Elena. [25]

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