



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW

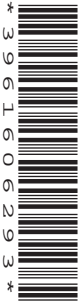
Paper 4 Law of Tort

9084/04

May/June 2008

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 'One purpose of the law of torts is to encourage people to take care and to discourage actions likely to endanger others.'

Critically assess whether the rules used to determine the standard of care in negligence cases achieve this aim. [25]

- 2 'The system of awarding damages in tort does not provide universal justice to claimants.'

Critically evaluate the truth of this statement. [25]

- 3 The maxim of *res ipsa loquitur* ('the thing speaks for itself') suggests that the defendant has been negligent.

Identify the circumstances under which this maxim might be used, discuss its effect and assess its value to a claimant. [25]

Section B

- 4 Marlene decides to have a house built on the edge of the city where she has lived for many years. She finds a plot of land for sale that she likes but is unsure of its suitability. At a party held by mutual friends, she discusses the issue with Denzil whom she knows is a building surveyor. It is clear from their conversation that Denzil knows the area where she wants to buy the plot of land and so she asks him whether he thinks that the plot will be suitable for house-building. He confirms that in his opinion it is. Relying on what Denzil says, Marlene proceeds with the purchase of the plot of land without having a professional survey of the plot itself to assess its actual suitability. When builders start work on her new house, they discover the plot to be totally unsuitable for the purpose as the area is very marshy.

Advise Marlene whether she has grounds for any claim in tort against Denzil and assess the likelihood of the success of her claims. [25]

- 5 Surjit runs a business that makes components for the IT industry. It is located on the outskirts of a small town near Manchester. The manufacturing process involves the use of toxic chemicals to clean the components before they are sent to customers. The chemicals are kept in a wooden shed on the edge of Surjit's premises, where his land joins the farm owned by Pritam.

Pritam alleges that chemicals from Surjit's shed have leaked out and contaminated his farmland and that he is unable to grow crops there any more. Surjit claims that the leak has been caused by the actions of thieves who broke into the shed and knocked over some cans of chemicals.

Consider the potential liability in tort for the loss sustained by Pritam in the situation above. How successful might any defences be? [25]

- 6 Jahangir runs a small self-service shop in the city of Oxford. For many months the business has experienced considerable loss of stock through shoplifting. Jahangir has been very vigilant when customers have been in the shop and is almost certain that the thieves are a group of young people who come into the shop regularly; he thinks that some of the group distract him while others steal goods from the shelves. A few days later, Jahangir confronts the group as they are about to enter his shop and he tells them that they are all banned and will not be allowed in the shop again.

A week later, two of the group of young people, Morris and Austin, sneak into the shop behind other customers, but they are spotted by Jahangir who grabs them both by the arm and says that he is going to lock them in his office and call the police. Morris and Austin try to escape Jahangir's grasp and Morris punches Jahangir in the face; but Jahangir is strong and manages to drag them into his office and locks the door. Jahangir suffers a black eye.

Consider the potential liability in tort of Morris, Austin and Jahangir arising out of this incident and the likely success of any defences that might be raised against any claims brought against one another. [25]

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