



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW

9084/41

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 Law Commission has argued that the present rules on the compensation of secondary victims for nervous shock are too restrictive and should be eased.

Discuss the rules and critically assess whether or not you agree with this view. [25]

- 2 'The basic principle in tort is that wrongdoers should be liable for their own actions.'

Consider the extent to which the concept of vicarious liability conflicts with this principle and evaluate the reasons why such liability is imposed. [25]

- 3 The burden of proof in negligence cases generally rests with the claimant, but there are circumstances when the maxim of *res ipsa loquitur* (*the facts speak for themselves*) is said to apply and the burden is relaxed.

Analyse the conditions under which this maxim operates and explain the implications of its operation for both claimant and defendant. [25]

Section B

- 4 Ibrahim, a police officer, receives a message over his radio about a bank robbery and thieves in a getaway car. Minutes later, he sees the car come speeding past. He jumps into his police car and, having failed to put on his seat belt, starts to chase the getaway vehicle that is being driven by Buster. Seeing the police car, Buster accelerates to evade capture. The high-speed chase comes to an end when, taking a bend far too quickly, Ibrahim's car hits a stationary vehicle and Ibrahim is seriously injured.

Consider the potential liability of Buster and the thieves for Ibrahim's injuries and discuss the likely success of any defences that might be raised. [25]

- 5 Mildred is a research chemist and has added a room to the back of her house to use as a laboratory. She has conducted research at home since 1985.

George has lived in the house adjoining Mildred's since 1988 and, without complaint, has put up with the noise of repeated small explosions and with noxious smells coming from Mildred's laboratory. George's hearing has now become weaker and he finds it very difficult to hear his television above the noise from Mildred's house. He has recently complained, but Mildred has ignored him.

Mildred has always stored her chemicals safely, but nevertheless a large explosion occurs which blows out the windows of George's house.

Consider Mildred's potential liability for George's losses and the likely success of any defences that might be raised. [25]

- 6 Miguel is on his way home from his job in a coal mine and is approximately 500 metres away from the gates when a series of explosions occurs back at the mine. Shock waves knock him to the ground. He tries to return to help workmates trapped and injured by the explosions, but thick smoke prevents him from doing so. A number of miners die as a result of the explosions and fire. Miguel suffers severe trauma following the incident and is unable to work again. A later enquiry exposes inadequate inspection and maintenance procedures at the mine as the main cause of the accident.

Discuss the potential liability in negligence of the mine owners for Miguel's illness and the likely success of any defences that might be raised. [25]

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