



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW

Paper 4 Law of Tort

9084/04

May/June 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 With reference to case law, critically assess the extent to which negligence can be considered to be a fault-based tort. [25]

2 Some lawyers would argue that the Rule in Rylands v Fletcher is unnecessary because other torts are sufficient to address the relevant issues.

Critically evaluate this view. [25]

3 The usual reason for awards of damages in tort is to compensate victims.

Using case law to support your answer, analyse the circumstances in which non-compensatory awards might be made instead. [25]

Section B

- 4 Joseph drives a coach for Enterprise Tours Ltd. He is driving a coach full of passengers to the airport, when he steers around a bend and, because of the speed at which it is travelling, the coach overturns and slides down an embankment on its roof. Jenny, a doctor, and her passenger Philip are in her car behind the coach and they immediately stop and go to assist the trapped and injured coach passengers. As the rescue takes place, a fire breaks out in the coach and Jenny and Philip sustain severe burns and other injuries.

Advise Jenny and Philip whether they have grounds for any claim in tort against Joseph and assess the likelihood of the success of their claims. [25]

- 5 Pierre and Danielle take their two boys, Luc (7 years old) and Jean (11 years old), to the Fawltly Towers World of Adventure for the day. As they pay and enter the theme park, there are notices displayed which state that visitors enter at their own risk. Pierre cuts his arm badly on the sharp edge of the metal seat on the Mad Maxx ride. Later in the afternoon, whilst the family is watching a parade through the park, Luc runs off and, ignoring warning signs, goes through a gate next to the Raging Rapids log flume ride and is injured by the machinery that operates the ride.

Consider the theme park's potential liability in tort for the loss sustained by Pierre and Luc in the situation above. How successful might any defences be? [25]

- 6 Mahmood and Nasir are neighbours. Mahmood's garden is full of many large shrubs and trees. Branches from a number of the trees overhang the fence separating the two gardens and Nasir has to sweep up lots of leaves when they drop each autumn. This has annoyed Nasir for several years, so he chops off the overhanging branches and throws them over the fence into Mahmood's garden together with other garden rubbish that he needs to get rid of.

Discuss the potential liability in tort of both parties involved and consider what defences might be successfully raised by either party. [25]

Permission to reproduce items where third-party owned material protected by copyright is included has been sought and cleared where possible. Every reasonable effort has been made by the publisher (UCLES) to trace copyright holders, but if any items requiring clearance have unwittingly been included, the publisher will be pleased to make amends at the earliest possible opportunity.

University of Cambridge International Examinations is part of the Cambridge Assessment Group. Cambridge Assessment is the brand name of University of Cambridge Local Examinations Syndicate (UCLES), which is itself a department of the University of Cambridge.