



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

**LAW**

**9084/21**

Paper 2 Data Response

**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.

You may use a soft pencil for any diagrams, graphs or rough working.

Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question.

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.



Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

- 1 One hot summer's day in July, Asif and Ashea decide to take their child Binda, aged six, to visit a garden and palace open to the public. They arrive at 10.00 am and start a tour of the house on their own. They look around the house, finishing with a tour of the cellars beneath the house. It is not very well lit and Asif puts on a light. Even though he is a self-employed electrician, Asif does not notice that the light switch has come away from the wall and he suffers an electric shock. Binda is frightened and runs off into the garden which has a notice saying 'KEEP OUT'. She sees some bright red berries and eats them. On the way home Binda complains of violent stomach pains.
- (a) Have the owners got a defence to any action brought by Asif against them? [10]
- (b) Are the owners liable for the illness suffered by Binda? [10]
- (c) What difficulties arise when the law on a particular topic is found in numerous sources and how can these difficulties be overcome? [10]
- (d) Explain the procedure for bringing an action to court under the Occupiers Liability Acts. [20]

### Source Material

#### The Occupiers Liability Act 1957

s.2(1) '... An occupier owes the same duty, the common duty of care, to all his visitors except insofar as he is free to do and does extend, restrict, modify or exclude his duty to any visitors by agreement or otherwise.'

s.2(3) '... the occupier ... must be prepared for children to be less careful than adults, ... the premises must be reasonably safe for a child of that age ...'

s.2(3)(b) '... the occupier is entitled to expect that, ... a person in the exercise of his calling, will appreciate the risks ordinarily incident to it. ...'

#### The Occupiers Liability Act 1984

s.1(1)(a) '... A duty of care applies in respect of people other than visitors for injury on the premises by reason of any danger due to the state of the premises or things done or omitted to be done on them ...'

#### Glasgow Corporation v Taylor [1922] 1 AC 44

A child aged seven died after eating poisonous berries from a tree in a public park. There was no warning that the berries were poisonous and the tree was not fenced. The Defendants were held liable. The danger would not be obvious to a child of that age.

2 Hamish appears before Beamish Magistrates' Court accused of taking items from a warehouse where he works on Saturdays. He pleads not guilty. His defence is that he was not working at the time and another employee took the items. The magistrates hear his defence and then retire to consider their verdict. The court clerk accompanies them to their room and answers questions about the exact time of the theft.

- (a) Hamish has been convicted of burglary by the magistrates. Advise him whether he may have grounds for appeal and if so on what basis. [10]
- (b) Describe the procedure for bringing an appeal from the Magistrates' Court. [10]

Jamie is accused of criminal damage. He was seen kicking a wall which later partially collapsed. His case is heard before Wellington magistrates who view closed circuit TV (CCTV) evidence. The magistrates retire to consider their verdict. They ask the clerk to join them and ask him what he thinks about the value of the CCTV footage and he says 'I think I have seen that man before. He looks guilty to me'.

- (c) Jamie has been convicted of criminal damage; consider whether he has grounds for appeal. [10]
- (d) Discuss the role played by magistrates in criminal cases. [20]

### Source material

#### Justices of the Peace Act 1979

s.28(3) '... It is hereby declared that the functions of a Justice's Clerk include the giving to the justices ... of advice about law, practice or procedure on questions arising in connection with the discharge of their functions ...'

#### R v Eccles Justices ex parte Farrelly (1993)

'... the clerk left the court and took part in the decision making process with the magistrates. The conviction of the defendant was quashed. It was held that if the magistrates require assistance of the clerk then he should join them only when asked to do so and should return to the court room once the advice has been given ...'

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