



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW

9084/42

Paper 4 Law of Tort

October/November 2011

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 Analyse critically the circumstances under which a *novus actus interveniens* (new act intervening) may affect a defendant's liability in the tort of negligence. [25]

2 Most torts require an element of fault.

Explain the forms that fault may take and critically assess the reasons for and against this requirement. [25]

3 The Occupier's Liability Act 1984 extended liability towards persons other than visitors.

Critically examine the conditions of liability imposed by S1(3) OLA 1984 and evaluate the defences available to actions brought under the Act. [25]

Section B

- 4 Ben is driving home in his car with his sister, Lisa, in the passenger seat. Ben approaches a major road junction and joins a queue of traffic. Expecting to move forward soon, Ben does not apply the car's handbrake while the car is stationary. Howard, who is trying to get to the station to catch a train, fails to notice that Ben's car has stopped on the road in front and drives into the back of Ben's car and pushes it into the car in front, owned by Mary.

Serious damage is caused to the cars owned by Ben and Mary and, even though she is wearing a seatbelt, Lisa suffers injuries to her back and neck and is unable to work for six months.

Advise Howard as to the extent of his potential liability towards Ben, Lisa and Mary. [25]

- 5 Philippe is walking along the road when he is knocked down by a van being driven carelessly by Marie-Helene. Marie-Helene is employed as a driver by Pegasus Couriers but, at the time of the accident, she has taken a different road from her delivery route in order to visit a friend in hospital.

Marie-Helene gets out of her van following the accident and pushes through a crowd of people who have gathered round. Instead of asking whether Philippe is hurt, she starts to shout at him for getting in the way of her van and says 'If all these people were not here, I would punch you on the nose for delaying me. I'm late with my deliveries already'. She then gets back into her van and drives off. Philippe has suffered a fractured arm and concussion.

Advise Philippe, Marie-Helene and Pegasus Couriers as to their potential rights and liabilities in tort. [25]

- 6 Mr and Mrs Singh see a travel company's advertisement for an adventure holiday and decide to go on it.

When they arrive at their destination, they are shown to their accommodation which is in a wooden cabin. On the first night of their stay, Mr and Mrs Singh are locked in the cabin for reasons of personal safety by travel company staff. When they discover that they had been locked in overnight, without any means with which to open the door, they complain to the travel company the next day; they are told that, had there been an emergency, an escape could have been made through a window in the roof.

Two days later, Mr Singh is drowned when he falls from a boat on the river during a storm. The trip, organised by the travel company, had been allowed to go ahead even though forecasts had predicted bad weather. Mrs Singh suffers significant trauma and anguish when she is informed of his death.

Advise the travel company what liability in tort the travel company may have towards Mr and Mrs Singh as a consequence of the above incidents. [25]

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