

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

LAW

9084/04

Paper 4 Law of Tort

May/June 2006

Additional Materials: Answer Booklet/Paper

1 hour 30 minutes

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 'Torts generally require an element of fault to be present before liability is established.'

Evaluate the arguments for and against this principle of English Law. [25]

- 2 The case of *Spartan Steel v Martin* (1972 All ER 557) illustrates that the distinction between pure economic loss and other kinds of loss can be a very fine one – and one that is difficult to justify. (Elliott & Quinn: Tort Law, 2003)

With reference to case law, critically assess the extent to which this statement is true of the tort of negligence. [25]

- 3 'An award of damages in tort is based on the principle of *restitutio in integrum*.'

Discuss the extent to which courts in England & Wales achieve this aim of restitution in full, the main remedy in tort. [25]

Section B

- 4 Ghislaine works as a cleaner and is paid by Madeleine to clean her house twice every week, finishing at 16:00 each day. As Madeleine works full-time, she gives a key to the house to Ghislaine, so that she can let herself in to do the cleaning.

One day, when she is using Madeleine's vacuum cleaner, it bursts into flames and Ghislaine sustains serious burns. Madeleine has recently had the cleaner serviced by Ace Electrical Company.

Three weeks later, having recovered and returned to work, she completes the day's cleaning and stays in the house to use Madeleine's computer to surf the Internet. At 17:00 she hears Madeleine returning and, trying to leave the house quickly, she stumbles down the damaged concrete step by the back door, falls and breaks her wrist.

Discuss any legal liability Madeleine might have, as occupier of the premises, for each of the injuries sustained by Ghislaine. [25]

- 5 Lord Dunsden owns much of the land surrounding the village of Playhatch and grants permission to local residents to use many of the roads that cross his land in order that they can access their homes.

Bessy, a local resident, is walking along one of the roads when she sees Lord Dunsden and a television crew filming rare birds that have nested in trees on his land. Bessy dislikes Lord Dunsden so, as she approaches, she starts shouting abuse at him. Lord Dunsden asks her to be quiet in order not to frighten the birds, but she ignores him and starts to scream very loudly. Lord Dunsden and two members of the camera crew grab hold of her and Lord Dunsden places his hand over her mouth until she stops disturbing the filming.

Bessy sustains some bruising to her arms and an affront to her personal dignity as a result of the treatment received from Lord Dunsden and now wishes to sue him. Consider what liability in tort, if any, Lord Dunsden would have towards Bessy. [25]

- 6 Khalid is knocked off his bicycle by a lorry being driven carelessly by Ahmed. Khalid appears to suffer nothing but bruising, but is taken to hospital as a precaution. Shortage of staff at the hospital leads to Khalid not being seen by a doctor for six hours. He is eventually sent for an X-ray, but the very busy staff fail to X-ray his skull and he is discharged when the X-rays taken show there to be no problem.

Several days later, suffering from headaches and still confused, Khalid returns to the hospital. An X-ray of his skull ordered by a second doctor reveals internal bleeding and Khalid is admitted to the hospital. An operation is carried out, but Khalid dies before recovering from the anaesthetic. Medical evidence indicates that the bleeding was so severe that Khalid was almost certain to die from his injuries, even if the problem had been diagnosed by the first doctor to attend him.

Consider the possible liability in tort for Khalid's death. [25]

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