

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

LAW

9084/04

Paper 4 Law of Tort

October/November 2006

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.

Candidates must attempt **one** question from section A, **one** from section B and **one** from section C, making a total of **three** responses required.

Section A

- 1 'To enter another's land without permission is never justifiable and is always actionable per se.'
Critically assess this statement. [25]

- 2 'Traditionally, anyone who was partly responsible for the harm done to them could not recover in tort, but today, damages can be reduced taking account of fault on behalf of the claimant.'

Trace the statutory and case law developments that helped to bring about this change in approach to awards of damages in negligence cases and critically analyse the standard of care issues that may arise as a result. [25]

- 3 'An occupier of premises owes the same duty, the "common duty of care", to all his visitors, except in so far as he is free to and does extend, restrict, modify or exclude his duty to any visitor or visitors by agreement or otherwise.' (Section 2(1) Occupiers' Liability Act 1957).

Discuss the extent to which the occupier of premises can limit his liability. [25]

Section B

- 4 Countrywide Bakeries Ltd supply a number of supermarkets with bread. In order to meet the demand of their customers, bread is baked in electric ovens for 24 hours per day, 7 days per week. During building works carried out on the adjoining property by Gungho Contracting Co, the electricity supply is accidentally cut off for 12 hours. This forces a temporary closure of the bakery.

Countrywide Bakeries Ltd now seek damages from Gungho Contracting Co for three losses: (i) the cost of the bread in the oven when the electricity supply was cut, (ii) the profit that would have been made on the sale of that bread, and (iii) the loss of profit of additional bread that would have been baked in that 12 hour period.

Assuming that Gungho Contracting Co are found to be negligent, assess the extent to which Countrywide Bakeries Ltd might be compensated for the losses identified above. [25]

- 5 Graham is a financial adviser. He is playing cards with friends one evening and they discuss the stock market and investments. During the conversation, Graham says that he believes Sparks & Mensa, a company that owns high street shops, is about to be taken over by an American company and that it would therefore represent a sound investment as its shares were bound to increase in value. Knowing Graham to be something of an expert, one of the friends, Neil, decides to invest £20,000 in Sparks & Mensa shares, in the hope of making a good profit. The takeover fails to take place and over the next few weeks all share prices fall dramatically and Neil loses half of his investment.

Discuss whether Graham can be held liable in negligence for the loss that Neil has sustained. [25]

- 6 Garfield buys a house located next to the local cricket club's ground. The ground is surrounded by a 3 metre high fence and has been played on for nearly 100 years. The house has been built so close to the ground that it is almost inevitable that cricket balls would be hit over the fence and into the house's garden from time to time.

One day, Garfield notices that two cricket balls have smashed panes of glass in his greenhouse. A few weeks later, as he is working in his garden, he is hit on the head by a cricket ball and sustains a fractured skull.

Garfield now wishes to seek redress for his injury and for his damaged property and he also wants to prevent cricket being played adjacent to his home. Advise Garfield whether he has grounds for any claim in tort and assess the likelihood of the success of these claims. [25]

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