

## **SUBJECT: TORT LAW I**

<b>TAUGHT IN:</b>	<b>CREDITS:</b>	<b>MODULE NO.</b>	<b>MODULE ORGANISER</b>
Level 5	10	LEG 202	Kevin Gibbons

**RECOMMENDED PRIOR KNOWLEDGE:** Introduction to Law (LEG 101)

### **MODULE AIMS**

Tort Law I is the first part of a two-semester course examining the legal protection afforded in civil proceedings against interference by others with the security of one's person, property or intangible interests. Whereas Tort Law II will focus on continental law, Tort Law I aims to examine the main categories of tortious liability existing in English law, particularly in relation to assault, battery, false imprisonment, negligence, trespass, nuisance, product liability and defamation. Particular attention is also given to general theoretical problems such as the concepts of fault, strict and vicarious liability and various issues of causation. All these issues will then be studied from a continental perspective in Tort Law II, enabling students to critically evaluate the two approaches side by side and bring them together into a synthesis.

### **LEARNING OUTCOMES**

On successful completion of the module, students should:

- understand the scope and function of the law of tort generally, and of English tort law in particular
- be able to identify the various interests which are protected by the law of tort and the legal and conceptual problems relating to particular kinds of damage
- possess a reasonable familiarity with the main tortious actions in English law, as well as any general or particular defences which may be available
- to be able to analyse unseen factual scenarios so as to identify any relevant tortious liability potentially arising
- be able to place the development of tort law within its appropriate historical and theoretical context
- be aware of various important criticisms made of the current law and proposals for its reform
- be able to critically evaluate relevant case law in the light of recent scholarship

### **TEACHING AND LEARNING STRATEGIES**

The course will be taught over the period of 15 weeks during one semester for three hours a week. Of these 15 weeks, 14 are teaching and 1 is the mid-term break.

A variety of different teaching methods is used: lectures, pre-class readings, in-depth analysis of selected cases and legal texts during seminar discussions, weekly written seminar assignments, a research paper based on detailed independent study of a particular topic, practical exercises and discussions. In addition to the basic weekly readings set from the course reader, active assistance and encouragement will be given to students to explore the subject further through independent research of cases and specialist literature.

### **INDICATIVE CONTENT**

The module is divided into the following weekly parts in all of which the detailed study of particular cases will play an important role:

## **1) INTRODUCTION TO THE LAW OF TORT**

History and development of tort law in England and on the Continent. Sources of tort law. What is a tort? Law of torts or of tort? The relationship between torts and other branches of the law of wrongs (crimes and breaches of contract). The concept of fault.

**Readings:** Strong & Williams, pp. 3-20

## **2) NEGLIGENCE: DUTY**

Concept of duty of care. Duty to whom? The neighbour rule under *Donoghue v Stevenson*. Concept of foreseeability. Subsequent development of the rule in English Law. Acts and omissions.

**Readings:** Strong & Williams, pp. 31-58

## **3) NEGLIGENCE: BREACH**

Deciding on the standard of care. Assessing the defendant's conduct against the standard of care. Proving breach. Question of breach primarily a factual issue. *Res ipsa loquitur*.

**Readings:** Strong & Williams, pp. 60-85

## **4) NEGLIGENCE: CAUSATION AND REMOTENESS**

Types of damage. Question of causation. "But for" and legal causation. *Novus actus interveniens*. Foreseeability of particular kind of harm. Remoteness.

**Readings:** Strong & Williams, pp. 86-114

## **5) NEGLIGENCE: DEFENCES**

Consent. Illegality. Exclusion of liability. Limitation periods. Contributory negligence.

**Readings:** Strong & Williams, pp. 115-136

## **6) OCCUPIER'S LIABILITY**

Duties of occupier under pre-1957 according to common law and under statute. Liability to visitors. Liability to non-visitors. Liability of non-occupiers.

**Readings:** Strong & Williams, pp. 153-180

## **7) Mid-term break**

## **8) TRESPASS TO LAND**

The defendant's mental state. The defendant's physical acts. Issues involving the claimant. Damages and other remedies. Defences.

**Readings:** Strong & Williams, pp. 220-227

## **9) TORTS INVOLVING NEIGHBOURS**

Nuisance. *Rylands v Fletcher* liability. Possible claimants. Possible defendants. Defences. Significance of *Read v Lyons* in limiting applicability of strict liability in the common law.

**Readings:** Strong & Williams, pp. 181-220

## **10) DAMAGES AND OTHER REMEDIES**

Mitigation of damage. Sharing of damages. Types of damages. Injunctions and other relief.

**Readings:** Strong & Williams, pp. 229-260

## **11) SPECIAL KINDS OF HARM: ECONOMIC LOSS**

Types of economic loss. *Hedley Byrne v Heller* and its subsequent development. The current law on economic loss. Problems with the current law.

**Readings:** Strong & Williams, pp. 276-302

## **12) SPECIAL KINDS OF HARM: PSYCHIATRIC DAMAGE**

What is psychiatric damage? The scope of the duty not to cause psychiatric damage. Who may claim? The remoteness test in psychiatric damage cases. Proposals for reform.

**Readings:** Strong & Williams, pp. 261-275

## **13) SPECIAL KINDS OF HARM: DEFAMATION AND TORTS AGAINST THE PERSON**

Elements of defamation. Slander and libel. Defences to defamation. Torts against the person (in outline only). Battery. Assault. False imprisonment. Defences.

**Readings:** Strong & Williams, pp. 303-338 and 391-420

## **14) PRODUCT LIABILITY**

The historical development of liability for defective products. The “narrow rule” in *Donoghue v Stevenson*. Statutory strict liability. The consumer Protection Act 1987. Defences.

**Readings:** Strong & Williams, pp. 341-365

## **15) LIABILITY FOR THE TORTS OF OTHERS**

The concept of vicarious liability. Liability for employees and independent contractors. Liability in hospitals. Relations between defendants.

**Readings:** Strong & Williams, pp. 367-387

## **METHODS OF ASSESSMENT**

Seminar assignments (30%), research-paper (20%) and final written-exam (50%). The final exam will cover both Torts I and Torts II and will be held at the end of the Spring Semester.

## **TEXTBOOK**

Strong, S.I. & Williams, L. *Tort Law: Text, Cases and Materials* (Oxford University Press, 1st ed., 2008)

## **RECOMMENDED LITERATURE**

Cane, P. *Atiyah's Accidents, Compensation and the Law* (Cambridge University Press, 7<sup>th</sup> ed., 2006)

Markesinis, B.S. and S.F. Deakin *Markesinis and Deakin's Tort Law* (Clarendon Press, 6<sup>th</sup> ed., 2008)

Weir, T. *A Casebook on Tort* (Sweet & Maxwell, 10<sup>th</sup> ed., 2004)

An AAU reader containing selections from the cases and basic literature accompanies this module.