

Revision Summary Chapter 15

Business-related torts

Product liability

- Product liability at common law is based upon Lord Atkin's narrow rule from *Donoghue v Stevenson*. It is therefore a species of negligence.
- The Consumer Protection Act 1987 introduces a system whereby manufacturers of defective products can be liable even though they are not at fault.
- Any person who suffered damage due to a defective product may commence an action under the 1987 Act. The Act applies only to defective products that cause death, personal injury, or loss of, or damage to, non-business property.

Trespass to goods

- Trespass to goods comprises any direct physical interference with goods that are in the possession of another person, without the consent of the person in possession, unless there is lawful justification for the interference.
- Conversion is an intentional act dealing with goods in a manner that is inconsistent with another's possession, or which serves to deny another's right to immediate possession.

Occupiers' liability

- Occupiers of premises owe a statutory duty towards persons on those premises, whether they are there lawfully or unlawfully.
- The Occupiers' Liability Act 1957 provides that an occupier is under a duty to take such care as is reasonable, in all of the circumstances of the case, to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.
- The Occupiers' Liability Act 1984 provides that an occupier is under a duty to take such care as is reasonable, in all of the circumstances, to see that the non-lawful visitor does not suffer injury on the premises by reason of the danger concerned.

Nuisance and *Rylands v Fletcher*

- An unlawful interference with a person's use or enjoyment of land or some right over, or in connection with, it may constitute a private nuisance. A private nuisance is a tort only.
- A public nuisance is one that materially affects the reasonable comfort and convenience of life of a class of the public that comes within the sphere or neighbourhood of its operation. A public nuisance is both a tort and a crime.
- The tort of *Rylands v Fletcher* occurs where a person brings a thing onto his land, or allows a thing to accumulate on his land, that, if it were to escape, would be likely to do mischief.

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Defamation

- Defamation occurs where the defendant publishes a statement referring to the claimant that lowers the claimant in the estimation of right-thinking members of society generally, or which would tend to make them shun or avoid him.
- A defamatory statement published in permanent form constitutes libel, whereas a defamatory statement published in a non-permanent form constitutes slander. Slander per se is only a tort, whereas libel can be both a tort and a crime.

Breach of statutory duty

- Not all breaches of statutory duty will give rise to liability in tort. Whether an action in tort can be founded will be ascertained by reference to Parliament's intention. This intention can be express or implied.