

LONGMAN OBJECTIVE TESTS SERIES

OBJECTIVE TESTS IN
TORT

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29/5.6/2.9

Objective tests in tort

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Longman
London and New York

Longman Group Limited,
Longman House, Burnt Mill, Harlow, Essex, UK

*Published in the United States of America
by Longman Inc., New York*

© Longman Group Limited 1981

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First published 1981

British Library Cataloguing in Publication Data

Leal, Andrew Richard

Objective tests in tort. — (Longman objective tests series).

1. Torts — England — Problems, exercises etc

I. Title

346'.42'03

KD1949

80-41441

ISBN 0-582-41187-4

Printed in Singapore by
Kyodo Shing Loong Printing Industries Pte Ltd

Acknowledgements

The authors would like to thank the numerous students and lecturers who tested the questions and commented on them. They would also like to express their gratitude to Helen Leal who typed many of the drafts and the final manuscript.

To Andrea

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Introduction

Students must ascertain whether they have understood and assimilated the subject matter they have read or recently been taught. They may believe they 'know' the material but when faced with an examination question they may realize their understanding is deficient. Essays can help but they only cover part of the syllabus and often only require repetition of basic facts and fail to test understanding; even where the essay title is carefully formulated its value depends on the conscientiousness of the marker and the number of essays a tutor can mark is limited.

Objective questions permit student self-assessment. The student can answer the questions, check the answer and discover the reason for any incorrect response. Because less time is required than with a standard essay, all the syllabus can be covered. The objective questions consist of:

Simple completion items

Only one answer is correct and students should ring the correct response; for example

Question: Four plus four equals

A 6 B 7 **C 8** D 9 E 10

Multiple completion items

Four pieces of information are provided. One or more of the answers is/are correct. Students should decide which are correct and then ring

- A if (1) only is correct
- B if (1) and (2) are correct
- C if (3) and (4) are correct
- D if (2), (3) and (4) are correct
- E if (1), (2), (3) and (4) are correct
- F if (4) only is correct

For example

Question: Eight is the total of

- (1) 6 + 4
- (2) 5 + 3
- (3) 4 + 4
- (4) 6 + 2

A B C **D** E F

OBJECTIVE TESTS IN TORT

Double statement items

Each question consists of a statement in the left-hand column followed by a statement in the right-hand column. Students select and ring the correct answer by using the following key.

- A** if both statements are true and the second statement is a correct explanation of, or reason for, the first statement.
- B** if both statements are true but the second statement is NOT a correct explanation of, or reason for, the first statement.
- C** if the first statement is true but the second statement is false.
- D** if the first statement is false but the second statement is true.
- E** if both the first and second statement are false.

For example

Q: London is the capital of England	It is the largest commercial centre in England
--	--

A **(B)** C D E

Q: England buys oranges from South Africa	The South African climate is more suitable for growing oranges than the English climate.
--	--

(A) B C D E

Problem situations

These vary and the student should follow the instructions at the beginning of each question.

Casework consolidation

These questions are designed to ensure that students know their cases and when to quote them (i.e. understand what statements they are an authority for). Most questions require the student to ring the correct response or insert the appropriate case or *ratio decidendi*.

After answering the questions the student should check with the answers at the end of the book where any necessary explanations are provided. Each correct response gains one mark. In questions marked * **deduct** one mark for each incorrect response. Progress can be assessed from the schedule at the end of the answers.

The authors appreciate that the questions do not cover the whole of tort but their objective is to cover thoroughly those areas which regularly appear in

examination questions. They also realize the legal content is dogmatic and ignores 'grey' areas of law. This is deliberate because the proposed readers are interested in passing examinations where the questions require an expression or application of definite principles and do not require students to 'discuss' or 'evaluate' the law.

Objective tests

Chapter 1 Negligence

Do not attempt to answer these questions until you have read the introduction.

Multiple completion

1 A duty of care is **automatically** owed to X when

- (1) a casual acquaintance at the golf club advises him to make certain investments
- (2) he is the defendant's neighbour as explained in *Donoghue v. Stevenson* (1932)
- (3) his solicitor advises him not to proceed to litigation
- (4) a manufacturer produces goods that X uses

A B C D E F

2 A doctor would be in breach of his duty of care if he

- (1) was speeding on his way to visit a dangerously sick patient and was involved in an accident
- (2) administered a drug after following the usual procedures and the patient died, being allergic to the drug
- (3) serviced his car but failed to notice a defect in the brakes which causes an accident. An amateur mechanic could not be expected to notice such a defect
- (4) was playing rugby and without examining an injured player, advised him to carry on. The injury was serious and was aggravated by his continuing the game

A B C D E F

3 A breach of duty of care occurs when a

- (1) policeman speeds on his way to prevent a bank robbery
- (2) householder, who is a competent do-it-yourself man, rewires his house but due to a faulty connection his mother-in-law is electrocuted. The fault was a technical one which only an experienced electrician could have avoided
- (3) rugby conversion clears the ten-foot high safety fence, smashing the clothes of a nearby nursery for the eighth time this season
- (4) policeman crosses a red traffic light at a busy road junction on his way to a minor accident

A B C D E F

OBJECTIVE TESTS IN TORT

4 P, a university student, would be guilty of contributory negligence where he

- (1) is injured in an accident because he is not wearing a seat belt. He believes the disadvantages of seat belts outweigh their advantages
- (2) is not wearing a seat belt when he is thrown through his windscreen following an accident in which he is blameless
- (3) does not wear a seat belt and is injured when involved in an accident partly caused by his own carelessness
- * (4) is on a zebra crossing and although he realizes a car driver is not going to stop, fails to take evasive action

A B C D E F

5 X would be guilty of contributory negligence where he

- (1) sits in the front seat of a car without a seat belt and is injured when he is thrown through the windscreen. X is seven years old
- (2) gives his wife her first driving lesson on a Saturday morning in a busy town and is injured when she mistakes the accelerator for the brake and crashes the car
- (3) accepts a lift with a driver he knows is slightly drunk and is injured when she drives into a traffic light
- (4) goes sailing without a life jacket and is drowned when Z's negligence causes the yacht to capsize

A B C D E F

6 The plaintiff could plead *res ipsa loquitur*

- (1) where an oxygen pipe blew up injuring him
- (2) whenever the cause of the accident is unknown
- (3) where the defendant's car skidded during a severe snowstorm and hit him
- (4) where the defendant's car blows a tyre and skids across the road injuring him

A B C D E F

7 In a negligence action against him, Z could successfully plead that X's act was a *novus actus interveniens* if

- (1) he negligently told P it was safe to swim in a prohibited area and X was injured attempting to rescue her
- (2) X committed a burglary after Z, a nightwatchman, had carelessly failed to secure the door
- (3) his negligent driving caused an accident and X, a surgeon, had followed customary procedures before administering a drug, after which the patient suffered brain damage because he was allergic to the drug

- (4) an explosion was caused by X, an Irish gasman, who lit a match whilst searching for a gas leak caused by Z's negligence

A B C D E F

8 In negligent mis-statement

- (1) the maker of a statement does not owe a duty of care unless he intends the other to rely on it
- (2) only a barrister or solicitor owes a duty of care when making statements about the law
- (3) financial loss may be recovered
- (4) an action will only succeed if the plaintiff suffers loss

A B C D E F

9 A could be liable for negligent mis-statement if he

- (1) advised his neighbour to buy shares in the firm for which he was the chief accountant because they were about to announce record profits, when in fact they were going into liquidation
- (2) was a banker who provided a financial reference regarding X but disclaimed liability if it was inaccurate. He failed to check his records and the reference was incorrect
- (3) was a stockbroker who advised a client to buy shares because 'they should improve' when unknown to anyone the managing director is about to be indicted for fraud
- (4) is an estate agent who told his neighbour to purchase francs because they were about to be revalued, whereas they were devalued

A B C D E F

10 X could be successfully sued if

- (1) he left his hand-brake off and his car, whilst running down a hill, crushed an infant's go-cart and the mother who was nearby and believed her son to be on the go-cart, suffered a nervous breakdown
- (2) the brakes of his car fail, causing an accident. The car has not been serviced for two years
- (3) he was an accountant whose incorrect financial advice caused his client to be heavily overtaxed
- (4) he failed to ensure that his employee, a one-eyed mechanic, wore protective goggles when working under rusty cars

A B C D E F

OBJECTIVE TESTS IN TORT

Double Statement

- 11 A surgeon who negligently performs an operation can be successfully sued When performing a skilled task you must exhibit the skill possessed by a reasonable man

A B C D E

- 12 If the exact injury is unforeseeable there cannot be liability for negligence Only foreseeable damages can be recovered

A B C D E

- 13 In *Ward v. Tesco Stores Ltd* (1976) the defendants had the burden of disproving negligence When the cause of the accident is unknown *res ipsa loquitur* automatically applies

A B C D E

- 14 If, whilst wearing a seat belt, your stationary car is hit by another vehicle which is on the wrong side of the road, your damages could not be reduced because of contributory negligence If you are not responsible for the accident you cannot be guilty of contributory negligence

A B C D E

- 15 If the intervening act is a foreseeable result of the initial negligence it cannot be a *novus actus interveniens* *Novus actus interveniens* only applies if the act complained of breaks the chain of causation

A B C D E

Casework consolidation

- 16 In *Home Office v. Dorset Yacht Co* (1970) the *ratio(nes) decidendi* was/were that
- (a) a duty of care is owed unless public policy reasons exist for its exclusion
 - (b) a duty is owed by the Home Office to people living in the vicinity of borstals and prisons
 - (c) the Home Office owed a duty of care to the *Dorset Yacht Co*.
 - (d) no duty of care existed as there was no special relationship
 - (e) once the neighbour test applied the Home Office owed a duty of care to the yacht club

17 The odd man out is

- (a) *Donoghue v. Stevenson* (1932)
- (b) *Bolton v. Stone* (1951).
- (c) *Latimer v. A.E.C. Ltd* (1953)
- (d) *Rondel v. Worsley* (1969)
- (e) *Home Office v. Dorset Yacht Co.* (1970)

Clue: Duty of Care

18 In *Donoghue v. Stevenson* (1932)

- (1) the plaintiff could have sued the retailer for breach of contract
- (2) the plaintiff's friend, who purchased the drink, could have sued the manufacturer in negligence
- (3) if the bottle had been clear the manufacturer might not have been liable
- (4) if someone had found the unopened bottle and drunk it they could probably have sued the manufacturer

A B C D E F

19 State an authority for the following propositions

- (a) A barrister cannot be sued by a client for negligence whilst involved in court work
Authority:
- (b) When deciding what a reasonable man would do in fulfilling his duty of care, the court considers the gravity of the possible injury
Authority:
- (c) The act of a third party which is foreseeable as a result of the defendant's action cannot be a *novus actus interveniens*
Authority:
- (d) Whether a duty of care exists in a new situation is a policy decision
Authority:
- (e) When considering what a reasonable man would do to prevent injury to his neighbour, the court considers the practicability of taking proper precautions
Authority:

(Answers for this Chapter on pp. 59-62)

Chapter 2 Occupiers liability

Multiple completion

1 An occupier under the Occupiers Liability Act, 1957, includes

- (1) X's brother who is staying with X for two weeks
- (2) an individual who rented X's cottage for a weekend
- (3) the resident publican of a public house
- (4) the owner of a country cottage who only uses it at weekends

A B C D E F

2 X organizes a playgroup in her home during the summer. The children often played in her half-acre garden in which there was an unfenced pond. Which of the following could sue X as the occupier if they fell into the pond and were injured? A

- (1) thief who was about to break into her house
- (2) parent who was collecting her daughter from the playgroup
- (3) five-year-old trespasser whom X knew obtained access via a hole in the fence
- (4) three-year-old child who attended the playgroup

A B C D E F

3 X is the contractor building a new college. The site, which is covered by electricity cables, is lit at night by floodlights. X would be liable under the Occupiers Liability Act, 1957, if

- (1) A, an employee, is injured when he falls over a cable whilst playing football during his lunch break
- (2) B, an electrician, is electrocuted when he checks the wiring done by his apprentice
- (3) C, an inexperienced bricklayer's labourer, is injured when the apparently safe scaffolding on which he is working collapses
- (4) D, an employee, is injured when he falls over a cable at dusk before the floodlights have come on

A B C D E F

4 X would be liable for the injury caused to Z, a six-year-old child, if

- (1) Z climbs over an eight-foot fence on X's land and falls into a pond
- (2) Z visits X's Safari Park with his father. A notice clearly states that windows must be closed because of the danger from the animals. Z opens the car window and his finger is bitten by a monkey