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TORT

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Preface

This book is designed for readers approaching tort law for the first time. We have sought to set out clearly and succinctly the rules applicable to each tort and illustrate how they work in practice by reference to case law. Whilst our discussion of case law can by no means replace reading the cases themselves, we have set out the salient points to serve as an aide memoire and to enable the reader to consider the law in a factual context. Similarly, we have outlined the main statutory provisions in this area of law and have sought to help the reader understand the wording and impact of these provisions.

The book has a traditional structure. In the first chapter, we give an overview of tort liability and consider its aims and objectives, the interests it seeks to protect, and its role in modern society. In Chapters 2 to 6, we examine the tort of negligence. Negligence is the most commonly used tort and forms an essential part of any tort law course. It is therefore considered in some detail and is divided into a number of issues which tend to be studied separately. Chapter 6 examines the law relating to causation. This is dealt with in the context of negligence, although it is relevant to all torts. The second half of the book deals with negligence-related liability, strict liability, and other torts. Chapter 7 explores tort liability arising in an employment relationship, whilst Chapter 8 examines tort liability arising from occupation of land. Chapter 9 considers two examples of strict liability statutes—the Consumer Protection Act 1987 and the Animals Act 1971—and their role within the law of tort. The book then deals with other torts, namely nuisance (and associated liability under the rule in *Rylands v Fletcher*), trespass, economic torts and defamation. Our final two chapters deal with the important subjects of defences and remedies.

No understanding of the law is complete without an appreciation of possible reforms. This new edition has two new chapters: the first dealing with economic torts (Chapter 12) and the second dealing with the developing law of privacy and the new tort of misuse of private information (Chapter 15). The new Chapter 12 is particularly timely in the light of the 2007 and 2008 House of Lords judgments in *OBG Ltd v Allan*¹ and *Customs and Excise Commissioners v Total Network SL*² which restructure the law of economic torts. Chapter 15 additionally demonstrates both the evolving nature of tort law and the ongoing influence of the Human Rights Act 1998 on the development of modern law. The other chapters also highlight important new case law (for example, *Customs and Excise Commissioners v Barclays Bank Plc*,³ *Barker v Corus*

¹ [2007] UKHL 21; [2008] 1 A.C. 1.

² [2008] UKHL 19; [2008] 2 W.L.R. 711.

³ [2006] UKHL 28; [2007] 1 A.C. 181.

UK Ltd,⁴ *A v Hoare*,⁵ *Jameel v Wall Street Journal Europe SPRL (No.3)*⁶ and statutory changes (for example, the Compensation Act 2006), together with consultation documents such as the 2007 government consultation paper on damages.

In writing this book, we have received considerable support from our colleagues and friends, to whom we express our thanks. We would particularly like to thank Susan Hawker and Keith Syrett for their help and encouragement, and also Keith Stanton, Michael Evans and James Henson. We would also like to thank all at Sweet & Maxwell. In a book of this kind, inevitably work must be divided. Silas has therefore taken primary responsibility for chapters on negligence and economic torts, whilst Paula has done so in respect of chapters on negligence-related liability, nuisance, trespass, defamation, privacy, defences and remedies. The book remains, however, a joint effort. Needless to say, any errors therein are ours alone. We have attempted to state the law as it stood on May 1, 2008.

One final point of terminology: the Woolf reforms were implemented in the Civil Procedure Rules 1998 which came into force on April 26, 1999. The aim of the rules is to speed up and simplify civil litigation. Accordingly, in an effort to demystify the law, the term the “plaintiff” was replaced with the term “claimant”. We therefore use the latter term when discussing principles of law and recent cases. The term “plaintiff”, however, is used when discussing cases decided prior to the date of the change.

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Silas Beckwith
Bristol and London, May 2008.

⁴ [2006] UKHL 20; [2006] 2 A.C. 572.

⁵ [2008] UKHL 6; [2008] 2 W.L.R. 311.

⁶ [2006] UKHL 44; [2007] 1 A.C. 359.

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