

Title:	(Unit 13) Law of Tort
Level:	6
Credit Value:	15

LEARNING OUTCOMES	ASSESSMENT CRITERIA	KNOWLEDGE, UNDERSTANDING AND SKILLS
THE LEARNER WILL:	THE LEARNER CAN:	
1. Understand the general principles of tortious liability	1.1 Define 'tort'	1.1 A civil wrong, arising from a breach of duty, fixed by law, generally giving rise to compensation by way of an action for damages.
	1.2 Explain the characteristics of tort	1.2 Common law basis: <ul style="list-style-type: none"> - importance of procedure; - requirement of fault; - absolute and strict liability; - <i>injuria sine damno</i> (a person may not have suffered damage yet have a cause of action in tort) and <i>damnum sine injuria</i> (a person may have suffered damage yet have no cause of action in tort); - mental element, including motive and malice; - the influence of the human rights act 1998.

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2. Understand the objectives of the law of tort	2.1 Explain the objectives of the law of tort	2.1 Such as: - compensation; - deterrence; - justice; - appeasement; - normative rules of behaviour; - protection of interests; - relationship with other areas of law such as contract and criminal law.
	2.2 Analyse the effectiveness of the law of tort in achieving its objectives	2.2 Such as: - efficiency and effectiveness as a compensation scheme; - comparison with other models, including private insurance, social security benefits and non-fault systems; - issues relating to the compensation culture.
3. Understand the law of trespass	3.1 Explain the law of trespass to the person	3.1 Define the three types: assault, battery and false imprisonment; - explain the requirements for all three types - understand the impact of relevant common law rules; - knowledge of any relevant defences.
	3.2 Explain the law of tort in <u>Wilkinson v Downton</u>	3.2 Define the tort; - explain the requirements; - understand the impact of relevant common law rules; - knowledge of any relevant defences.

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	3.3 Explain the law of trespass to land	3.3 Define the tort; - explain the requirements; - understand the impact of relevant common law rules; - knowledge of any relevant defences.
	3.4 Explain the law of trespass to goods	3.4 Define the tort; - explain the requirements; - understand the impact of relevant common law rules; - knowledge of any relevant defences.
	3.5 Analyse the law of trespass and the tort in <u>Wilkinson v Downton</u>	3.5 Define the tort; - explain the requirements; - understand the impact of relevant common law rules; - knowledge of any relevant defences.
	3.6 Apply the law of trespass and the tort in <u>Wilkinson v Downton</u> to a given situation	3.6 Application of the law to a complex scenario.
	3.7 Critically evaluate a given issue or situation to predict probable legal implications	3.7 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.

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4. Understand the law of negligence	4.1 Explain negligence	4.1 Define negligence; - explain its requirements (duty, standard of care, breach, remoteness of damages and causation).
	4.2 Explain the evolution of the requirements of duty of care	4.2 Origins of test (foreseeability and proximity in <u>Donoghue v Stevenson</u> ; - impact of cases such as <u>Anns v Merton BC</u> on scope of duty; - fair, just and reasonable; incremental approach in <u>Caparo v Dickman</u> ; - recent clarification in cases such as <u>Michael v Chief Constable of South Wales</u> and <u>Robinson v Chief Constable West Yorkshire Police</u> .
	4.3 Explain the law in those areas in which public policy plays a significant role in determining the existence of duty of care	4.3 Such as: - consideration by the court of whether a duty of care <i>should</i> exist rather than whether it does exist; - pure economic loss resulting from negligent acts and negligent misstatements; - psychological damage; - police; - local authorities; - acts of third parties; - omissions.

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<p>4.4 Explain the law on breach of duty of care</p>	<p>4.4 Including:</p> <ul style="list-style-type: none"> - standard to be held to; - objectively tested; - magnitude of risk tests: likelihood and seriousness of damage (<u>Wagon Mound</u>); - relevance of accepted body of professional opinion (<u>Bolam</u>; <u>Bolitho</u>); - consideration of the cost of prevention (<u>Latimer</u>); - impact of social utility argument (<u>watt</u>).
<p>4.5 Explain the legal tests for causation in fact</p>	<p>4.5 Explain purpose of causation element;</p> <ul style="list-style-type: none"> - explain factual causation and the ‘but for’ test (<u>Barnett v Chelsea Hospital Management Committee</u>); - explain legal causation (<u>Bonnington Castings v Wardlaw</u>); - explain the ‘material increase of risk test’, e.g., <u>McGhee v NCB</u>; <u>Baker v Willoughby</u>, <u>Jobling v Associated Dairies</u>; - subsequent developments including <u>Fairchild v Glenhaven Funeral Services</u> (2003), <u>Gregg v Scott</u> (2005), <u>Barker v Corus UK</u> (2006), s3 Compensation Act 2006, <u>Sienkiewicz v Greif</u> (2011).
<p>4.6 Explain the law on breaks in the ‘chain of causation’</p>	<p>4.6 Explain an intervening event;</p> <ul style="list-style-type: none"> - explain how the act of a third party can be an intervening act and break the chain of causation, e.g., <u>Home Office v Dorset Yacht Co.</u> - explain how the act of a claimant can be an intervening act and break the chain of causation e.g., <u>McKew v Holland, Hannen & Cubitts</u>.

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	4.7 Explain the law on remoteness of damage	4.7 Explain law on remoteness of damage; - understanding of relevant case law (e.g., <u>Wagon Mound</u> ; <u>Hughes v Lord Advocate</u> ; <u>Smith v Littlewoods Organisation</u>).
	4.8 Explain the doctrine of 'take your victim as you find him'	4.8 Explain the doctrine; - understanding of relevant case law, e.g., <u>Smith v Leech Brain & Co Ltd</u> .
	4.9 Explain the law governing proof of negligence	4.9 Explain the burden and standard of proof; - s11 Civil Evidence Act 1968; - <i>res ipsa loquitur</i> (the thing speaks for itself).
	4.10 Analyse the law of negligence	4.10 Such as: - the interests protected; - public policy; - the nature of the harm; - the parties; - remedies; - the effectiveness of the action.
	4.11 Apply the law of negligence to a given situation	4.11 Application of the law to a complex scenario.
	4.12 Critically evaluate a given issue or situation to predict probable legal implications	4.12 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.

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5. Understand the law of tort relating to employers' liability	5.1	Explain the law on the employer's personal liability to the employee in negligence	5.1	Define the liability; - explain the requirements; - understand the impact of relevant statutory and common law rules.
	5.3	Analyse the common law on employers' liability	5.3	An analysis of the common law governing employers' liability to employees and vicarious liability.
	5.4	Apply the common law governing the liability of employers to a given situation	5.4	Application of the law to a complex scenario.
	5.5	Critically evaluate a given issue or situation to predict probable legal implications	5.5	A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.
6. Understand the law of tort relating to liability for premises	6.1	Explain the law under the Occupiers' Liability Acts of 1957 and 1984	6.1	Define the liability; - explain the requirements; - understand the impact of relevant statutory and common law rules; - knowledge of any relevant defences.
	6.2	Analyse the law under the Occupiers' Liability Acts 1957 and 1984	6.2	Such as: - distinguishing actions under the 1957 and 1984 Acts from one another and from common law negligence; - the interests protected; - the nature of the harm; - the parties; remedies; - the effectiveness of the actions.
	6.3	Apply the Occupiers' Liability Acts 1957 and 1984 and relevant case law to a given situation	6.3	Application of the law to a complex scenario.

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	6.4	Critically evaluate a given issue or situation to predict probable legal implications	6.4	A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.
7. Understand the law of nuisance	7.1	Explain the law of private nuisance	7.1	Define the tort; - explain the requirements; - understand the impact of relevant common law rules; - knowledge of any relevant defences.
	7.2	Explain the law of public nuisance	7.2	Define the tort; - explain the requirements for the criminal offence of public nuisance as per s78 Police, Crime, Sentencing and Courts Act 2022 - understand the impact of relevant common law rules that are retained for civil liability. - knowledge of any relevant defences.
	7.3	Explain the law of the tort in <u>Rylands v Fletcher</u>	7.3	Define the tort; - explain the requirements; - understand the impact of relevant common law rules; - knowledge of any relevant defences.

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	7.4	Analyse the law of nuisance	7.4	Including: <ul style="list-style-type: none">- distinguishing public nuisance, private nuisance, and the tort in <u>Rylands v Fletcher</u>;- the interests protected;- the nature of the harm;- the parties;- remedies;- the effectiveness of the action.
	7.5	Apply the law of nuisance (including <u>Rylands v Fletcher</u>) to a given situation	7.5	Application of the law to a complex scenario.
	7.6	Critically evaluate a given issue or situation to predict probable legal implications	7.6	A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.
8. Understand the law of defamation	8.1	Define the tort of defamation	8.1	A published statement that has caused or is likely to cause serious harm to the reputation of the claimant, or serious financial loss if a body trading for profit.
	8.2	Distinguish libel from slander	8.2	Knowledge of the types and their forms.
	8.3	Explain the law of defamation	8.3	Define the tort; <ul style="list-style-type: none">- explain the requirements;- understand the impact of relevant statutory and common law rules;- knowledge of any relevant defences.

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	8.4	Analyse the law of defamation	8.4	Including: - the interests protected; - the nature of the harm; - the parties; - remedies; - the effectiveness of the action;
	8.5	Apply the law of defamation to a given situation	8.5	Application of the law to a complex scenario.
	8.6	Critically evaluate a given issue or situation to predict probable legal implications	8.6	A reasoned opinion of likely legal implications, including remedies and defences, where appropriate
9. Understand general defences	9.1	Explain the role of complete and partial defences	9.1	Explain that complete defences defeat the action of the claimant and partial defences act to reduce damages.
	9.2	Explain the defence of <i>volenti non fit injuria</i> (Consent)	9.2	Explain that which is consented to cannot be wrong in law; - requirements a defendant must satisfy for consent to be considered valid; - knowledge of any relevant case law.
	9.3	Explain the defence of <i>ex turpi causa non oritur</i> action (No cause of action arises from an immoral/illegal cause)	9.3	Explain that a claim by a victim of tort who is in course of committing a crime may be disallowed by the court; - relevance of policy; - knowledge of any relevant case law.
	9.4	Explain the defence of contributory negligence	9.4	Explain that damages can be reduced accordingly; - requirements a defendant must satisfy; - knowledge of relevant case law.

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	9.5	Analyse general defences in tort	9.5	Such as: <ul style="list-style-type: none"> - analysis of nature of the defence; - impact depending on whether partial or complete defence; - consideration of the defence in relation to special groups, e.g., children, workers, and rescuers.
	9.6	Apply the law of general defences to a given situation	9.6	Application of the law to a complex scenario.
	9.7	Critically evaluate a given issue or situation to predict probable legal implications	9.7	A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.
10. Understand remedies in tort	10.1	Explain the classification of remedies	10.1	Judicial remedies: damages, injunction; - non-judicial remedies: self-help, abatement etc.
	10.2	Explain the meaning of damages	10.1	Monetary compensation.
	10.3	Explain the purpose of damages in tort	10.3	To place the claimant in the position s/he would have been had the tort not been committed.
	10.4	Explain damages for personal injury	10.4	<ul style="list-style-type: none"> - explain the different types of damages; - explain the different heads of damages; - knowledge of relevant case law.
	10.6	Explain injunctions	10.6	<ul style="list-style-type: none"> - explain the different types of injunctions; - explain the impact of injunctions; - knowledge of any case law.

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	<p>10.7 Explain the implications for damages of the death of the claimant</p>	<p>10.7 Such as:</p> <ul style="list-style-type: none"> - survival of deceased's right of action (Law Reform (Miscellaneous Provisions) Act 1934); - knowledge of any relevant statutory and common law rules.
	<p>10.8 Analyse the law on remedies</p>	<p>10.8 Such as:</p> <ul style="list-style-type: none"> - general nature of assessment of damages; - nature of assessment issues in relation to personal injury and death; - giving monetary values to injury and trauma; - predicting levels of compensation etc.
	<p>10.9 Apply the law on remedies to a given situation</p>	<p>10.9 Application of the law to a complex scenario.</p>
	<p>10.10 Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>10.10 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>

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Additional information about the unit	
Unit aim(s)	To accredit a broad and detailed understanding of Law of Tort
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards
Details of the relationship between the unit and other standards or curricula (if appropriate)	N/A
Assessment requirements specified by a sector or regulatory body (if appropriate)	N/A
Endorsement of the unit by a sector or other appropriate body (if required)	N/A
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	CILEx (The Chartered Institute of Legal Executives)
Availability for delivery	1 September 2009

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