13. Lesser Interference With Land: Nuisance

Simon Deakin, Angus Johnston, and Basil Markesinis

Private nuisance is defined as any substantial and unreasonable interference with the claimant’s land or any right over or in connection with its enjoyment. This chapter discusses the basis of liability; unreasonable interference; who can sue and who can be sued; defences; remedies; public nuisance; nuisance and other forms of liability; and nuisance and protection of the environment.

10. Wrongful Interference with Goods

Christian Witting

This chapter examines the protection provided by tort law against wrongful interference with goods. It explains that the action for trespass to goods affords a remedy where there has been an intentional or careless direct interference with goods in the claimant’s possession at the time of the trespass. It discusses the remedies available for torts to goods contained in the Torts (Interference with Goods) Act 1977. This chapter also considers conversion and residual torts.

11. Wrongful interference with goods

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rights It discusses the remedies available for torts to goods contained in the Torts (Interference with Goods) Act 1977.

15. The Economic Torts
Simon Deakin, Angus Johnston, and Basil Markesinis

Economic torts seek to protect a person in relation to his trade, business, or livelihood. However, he will only be protected from certain kinds of interference, principally those inflicted intentionally or deliberately. Nor will an intention to harm suffice, on its own, to ground liability. There are three broad sub-categories of liability: those torts based on the defendant’s wrongful interference with the claimant’s pre-existing legal rights (inducing breach of contract and inducing breach of statutory duty, in particular); the tort of interference with trade or business by unlawful means; and the tort of conspiracy. This chapter considers each of these in turn followed by an outline of the statutory immunities in relation to trade disputes.

St Helen’s Smelting Co v Tipping [1865] 11 ER 642
Craig Purshouse

Essential Cases: Tort Law provides a bridge between course textbooks and key case judgments. This case document summarizes the facts and decision in St Helen’s Smelting Co v Tipping [1865] 11 ER 642. The document also included supporting commentary from author Craig Purshouse.

21. Article 1, First Protocol: The Right to Property
David Harris, Michael O’Boyle, Ed Bates, and Carla Buckley

This chapter discusses Article 1 of the First Protocol of the European Convention on Human Rights, which both establishes the right to the peaceful enjoyment of one's possessions and expressly allows a state a wide power to interfere with the right in the public interest. Since the late 1990s, the scope of Article 1 has generally been enhanced to embrace a greater variety of interests with the strengthening of the autonomous concept of possessions.
17. Trespass to Land and Goods, and Conversion

Jenny Steele

All books in this flagship series contain carefully selected substantial extracts from key cases, legislation, and academic debate, providing able students with a stand-alone resource. This chapter considers a range of proprietary torts which protect against trespass to land and goods, as well as conversion which protects against interferences with goods (but not land). It considers the overlap in functions between conversion and property law, particularly in the available remedies such as recovery of the chattel and damages based both on value of the goods (if not recovered) and on consequential loss. The chapter first looks at non-deliberate trespass to land and the remedies available to the claimant. This is followed by a discussion on wrongful interference with goods. The chapter then presents a general definition of conversion and its distinctive features, and what interest in the chattels the claimant must have. Finally, it outlines a number of remedies available to the claimant in the case of conversion. Relevant court cases are cited where appropriate.

9. Non-Fatal violations of the person

Jeremy Horder

This Chapter discusses two main forms of physical violation: the use of physical force, and sexual interference. The first part covers non-fatal physical offences (offences against the person), including the contested question of the limits of consent, and possible reforms of the law. There have been numerous recommendations for reform of this area of the law, including Law Commission proposals in the last year or so. The second part is devoted to the law of sexual offences under the Sexual Offences Act 2003, focusing on the main offences and the definition of consent. It concludes with a review of the law’s successes and failures. Arguably, whilst the law’s basic definition of rape is much improved, the 2003 Act falls down in relation to many other problems that it was meant to solve.

17. Nuisance

Christian Witting

This chapter examines the provisions of tort law concerning private and public nuisance. It explains that the tort of private nuisance protects the rights in the use of land, rights in the enjoyment of land, and rights in land itself so as to protect against physical damage to land.
It highlights the difficulty in establishing whether private nuisance constitutes a tort of strict liability. This chapter also discusses the elements of public nuisance and analyses relevant court cases.

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13. Nuisance
Vera Bermingham and Carol Brennan

Without assuming prior legal knowledge, books in the Directions series introduce and guide readers through key points of law and legal debate. Questions, diagrams, and exercises
help readers to engage fully with each subject and check their understanding as they progress. Nuisance protects against ‘indirect’ interference with the claimant’s use and enjoyment of land. For example, smoke emitted by rubbish being burned on a defendant’s land which prevents a neighbour from enjoying his garden constitutes indirect interference which, depending on other factors, may give rise to an action in nuisance. There are two categories of nuisance: public nuisance and private nuisance. Private nuisance refers to an unreasonable interference with the use or enjoyment of land. In order to sue in private nuisance, the claimant must have an interest in the land affected. Both public nuisance and private nuisance protect against indirect interference with use or enjoyment of land. This chapter examines the elements of liability in private and public nuisance and discusses the differences between private and public nuisance. It also looks at the relationship between nuisance and fault-based liability and evaluates the human rights dimension to the law of nuisance.

Markesinis and Deakin's Tort Law
Simon Deakin, FBA, Angus Johnston, and Sir Basil Markesinis QC, FBA

This chapter discusses trespass to goods, conversion, and negligence. The present law of trespass to chattels is governed by the Torts (Interference with Goods) Act 1977, which introduces a collective term ‘wrongful interference with goods’ to cover trespass, conversion, negligence, and any other tort resulting in damage to goods or to an interest in goods. The Act abolishes the tort of detinue, but otherwise has little or no impact on the
principles of liability developed by the common law: thus, the nomenclature and substantive scope of the common law claims remain significant to this day in understanding the legal rules in this area.

13. Rylands v Fletcher
Vera Bermingham and Carol Brennan

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16. Protecting Private Life, the Home, and Correspondence
Bernadette Rainey, Elizabeth Wicks, and Clare Ovey

This chapter examines the provisions of the European Convention on Human Rights (ECHR) for the protection of private life, the home, and correspondence; analyses the scope of the protection of private life under ECHR; and provides the Convention definition of private life, home, and correspondence. It also discusses the judgments made by the Strasbourg Court in several relevant cases, including those involving freedom from interference with physical and psychological integrity, freedom to develop one’s identity, protection of one’s living environment, and protection of prisoners’ correspondence.

15. Business-related torts
Lee Roach

This chapter examines the different types of torts that can affect businesses. A number of these torts (namely product liability, and wrongful interference with goods) aim to protect persons’ usage of goods, whereas other torts (such as nuisance, and the tort in Rylands v
Fletcher) are more about protecting persons’ enjoyment of land and property. The tort of occupiers’ liability discusses the duties that are owed by persons who occupy land to those who are present on that land (both lawful visitors and non-lawful visitors). The chapter also discusses the protection of more abstract interests, such as how the law of defamation seeks to protect a person’s reputation. In addition, a number of other torts are discussed, including employers’ liability, and breach of statutory duty.

16. Protecting Private Life, The Home, and Correspondence
Bernadette Rainey, Elizabeth Wicks, and Andclare Ovey

This chapter examines Article 8 of the European Convention on Human Rights (ECHR) and its protection of private life, the home, and correspondence; analyses the scope of the protection of private life under ECHR; and provides the Convention definition of private life, home, and correspondence. It also discusses the judgments made by the Strasbourg Court in several relevant cases, including those involving freedom from interference with physical and psychological integrity, freedom to develop one’s identity, issues of health and sexuality, protection of one’s living environment, and protection of prisoners’ correspondence.

3. Trespass to the person and to land
Vera Bermingham and Carol Brennan

Without assuming prior legal knowledge, books in the Directions series introduce and guide readers through key points of law and legal debate. Questions, diagrams, and exercises help readers to engage fully with each subject and check their understanding as they progress. Trespass, one of the oldest torts, takes three forms that are all actionable per se: trespass to the person, trespass to land, and trespass to goods. In each case, a claimant is not required to prove damage to bring an action in trespass. Many modern cases of trespass to the person are taken against the police or other public officials, mainly to vindicate the claimant’s rights rather than to obtain an award of damages in compensation. This chapter focuses on trespass to the person and trespass to land, the former of which involves an intentional infliction of harm without a direct interference. It first discusses assault, battery, and false imprisonment before turning to the defences to battery, the relevance of the tort of Wilkinson v Downton, and the difference between trespass to land and nuisance.
Without assuming prior legal knowledge, books in the Directions series introduce and guide readers through key points of law and legal debate. Questions, diagrams, and exercises help readers to engage fully with each subject and check their understanding as they progress.

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