

TABLE OF CONTENTS

<i>Forewords to the Previous Editions</i>	vii
<i>Preface</i>	ix
<i>Table of Abbreviations</i>	xix
<i>Table of Cases</i>	xxiii
<i>Table of Statutes</i>	clxxxi
<i>Table of Statutory Instruments</i>	cxcvii
<i>Table of Civil Procedure Rules</i>	ccv
<i>Table of Civil Procedure Rules: Practice Directions</i>	ccvii
<i>Table of Directives</i>	ccix
<i>Table of Treaties and Conventions</i>	ccxi

PART I: GENERAL PRINCIPLES

1. THE MEANING OF NEGLIGENCE

1. Negligence as a State of Mind	1-03
2. Negligence as Careless Conduct	1-07
3. Negligence as the Breach of a Duty to Take Care	1-19

2. THE DUTY TO TAKE CARE

1. Concept of a Duty of Care	2-01
(A) Introduction	2-01
(B) Duty formulae	2-05
(C) Application of the Caparo analysis	2-31
(i) Foreseeability	2-31
(ii) Proximity	2-35
(iii) Fair, just and reasonable	2-42
(iv) Conclusions	2-53
2. The Kind of Conduct	2-55
(A) Positive conduct	2-55
(B) Omissions	2-62
(i) Introduction	2-62
(ii) Liability for property	2-71
(iii) Inducing reliance	2-82
(iv) Assuming responsibility for other persons	2-86
(v) Assuming responsibility by taking on a task	2-97
3. The Kind of Harm	2-104
(A) Introduction	2-104
(B) Physical damage claims	2-106
(i) Damage to the person	2-106
(ii) Damage to property	2-117
(iii) Some particular duty questions	2-121
(C) Psychiatric injury	2-127
(i) Introduction	2-127
(ii) Actionable mental injury	2-131
(iii) Primary victims	2-139
(iv) Secondary victims	2-146
(v) Further categories of claimant	2-170

(D) Financial injury	2-181
(E) Negligent statements causing financial injury	2-184
(i) Introduction	2-184
(ii) The defendant's statement	2-191
(iii) Reliance	2-196
(iv) Assuming responsibility for words	2-198
(v) The special relationship	2-203
(vi) Disclaimers	2-223
(F) Consequential, relational and pure financial loss	2-227
(i) Consequential economic loss	2-228
(ii) Relational economic loss	2-233
(iii) Pure financial loss	2-245
(G) Defective buildings	2-260
(H) Defective chattels	2-269
(I) Sterilisation cases	2-272
4. The Kind of Claimant	2-285
(A) Introduction	2-285
(B) Rescuers	2-289
(C) Unborn children	2-296
(D) Trespassers	2-304
5. The Kind of Defendant	2-306
(A) Introduction	2-306
(B) Barristers	2-307
(C) Expert witnesses	2-310
(D) Judges	2-312
(E) Public bodies	2-313
(i) Introduction	2-313
(ii) Duty in public law	2-315
(iii) Duty in private law	2-323
(iv) Justiciability	2-325
(v) Omissions to act	2-329
(vi) Common law context	2-348
(vii) Statutory context	2-352
(viii) Impact of European Human Rights law	2-357
3. PARTIES AND VICARIOUS LIABILITY	
(A) The Crown	3-03
(B) Judges and quasi judges, prosecutors, the police	3-13
(C) The armed forces	3-22
(D) Post office and telecommunication services	3-29
(E) Foreign sovereigns, other heads of state, ambassadors, public officials and visiting armed forces	3-37
(F) The European Union	3-44
(G) Corporations, Trade Unions and unincorporated associations	3-50
(H) Partners	3-59
(I) Husband and wife	3-64
(J) Children	3-66
(K) Prisoners	3-76
(L) Bankrupts	3-78
(M) Persons suffering mental disorder	3-82
(N) Assignees	3-87

(O) Representation after death	3-93
(P) Joint claimants	3-96
(Q) Joint and several tortfeasors	3-99
4. PRINCIPAL DEFENCES AND DISCHARGES FROM LIABILITY	
1. Contributory Negligence	4-03
2. Agreement to Run the Risk: "Volenti Non Fit Injuria"	4-79
3. Limitation of Action	4-141
(A) General Principles	4-149
(B) Personal Injury Litigation	4-188
(C) Latent Damage	4-236
(D) Miscellaneous Limitation Periods	4-245
4. Other Defences	4-263
(A) Illegality	4-263
(B) Abuse of Process	4-311
(C) Henderson v Henderson	4-315
(D) "Full and Final Settlement"	4-325
(E) Striking out Negligence Claims	4-329
5. CAUSATION AND REMOTENESS OF DAMAGE	
1. Introduction	5-01
2. Cause In Fact	5-04
(A) "But for" causation	5-04
(B) Proof of a risk of harm	5-23
(C) Lack of informed consent	5-54
(D) Loss of a chance	5-59
(E) Causation and quantification	5-70
3. Cause in Law	5-76
(A) Scope of the risk	5-76
(B) Intervening third party conduct	5-87
(C) Intervening act of the claimant	5-97
(D) Failure of an expected act to occur	5-110
4. Remoteness of Damage	5-113
(A) Introduction	5-113
(B) Development of the tests to be applied	5-119
(C) Application of the foresight test	5-128
(i) Personal injuries	5-130
(ii) Damage to property	5-147
(iii) Economic loss	5-154
6. PROOF AND DAMAGES	
1. Proof: Generally	6-01
(A) The burden and standard of proof	6-01
(B) Inevitable Accident	6-08
(C) Proof by inference	6-15
(D) Res ipsa loquitur	6-22
(E) Proof and causation	6-54
2. Damages Generally	6-60
3. Heads of Damages and their Assessment	6-80
(A) General and special damages	6-80

(B) Damage to chattels, land and buildings	6-86
(i) Damage to chattels	6-86
(ii) Damage to land and buildings	6-100
(C) Damages for personal injuries	6-105
(i) Non-pecuniary loss	6-108
(ii) Pecuniary loss	6-126
(iii) Future pecuniary loss	6-142
(iv) Deduction of benefits	6-167
(v) Provisional damages and interim awards	6-179
(vi) Interest on awards	6-182
(vii) Consideration of other claims	6-190

7. VICARIOUS LIABILITY AND NON-DELEGABLE DUTIES

1. Vicarious Liability	7-01
(A) Introduction	7-01
(B) Policy	7-07
(C) The relationship of employer and employee	7-14
(D) Relationships analogous to employment	7-30
(E) The course or scope of employment	7-43
(F) The "close connection" test	7-62
(G) Principal and agent	7-80
(H) Partners	7-90
2. Non-Delegable Duties	7-92
(A) Introduction	7-92
(B) Extra-hazardous activities	7-95
(C) Protective relationships	7-97
(D) Neighbouring landowners	7-107
(E) Dangers on the highway	7-108

PART II: STANDARD OF CARE

8. THE STANDARD OF CARE

1. The Reasonable Care Standard Generally	8-01
2. Matters Taken Into Account	8-10
(A) Magnitude of the risk	8-11
(B) Likelihood of injury	8-17
(C) Gravity of the consequences	8-21
(D) Cost and practicability	8-30
(E) Other factors	8-44

9. DANGEROUS PREMISES

1. The Premises	9-03
2. The Occupier	9-16
3. The Visitor	9-24
4. The Duty Owed	9-37
(A) The common duty of care	9-37
(B) Extension, restriction, modification or exclusion of liability	9-43
(C) Liability to children	9-51
(D) Duty to those engaged in work	9-62

(E) Dangers	9-66
(F) Defences	9-76
(G) Effect of contract	9-84
5. Liability of Non-Occupiers	9-105
6. Liability of Vendors, Lessors, Builders and Local Authorities	9-119
(A) Liability at common law	9-119
(B) Statutory liability	9-139
7. Liability to Trespassers and persons other than visitors	9-165
(A) The common law before 1984	9-165
(B) The Occupiers' Liability Act 1984	9-172
8. Liability to Persons on Adjoining Premises	9-189

10. PERSONS PROFESSING SOME SPECIAL SKILL

1. Actions Against Skilled Persons Generally	10-01
(A) Introduction	10-01
2. Accountants and Auditors	10-24
3. Architects, Quantity Surveyors, Structural and Other Engineers, Building Contractors	10-52
4. Auctioneers	10-78
5. Bankers and Finance Companies	10-83
6. Barristers	10-100
7. Dentists	10-112
8. Medical Practitioners	10-114
9. Hospitals and Health Authorities	10-167
10. Insurance Agents and Brokers	10-183
11. Nurses	10-201
12. Quasi-Arbitrators	10-202
13. Schools and Schoolteachers	10-203
14. Solicitors	10-231
(A) The duty of care	10-231
(B) The standard of care	10-250
(C) Causation and Damage	10-300
15. Stockbrokers	10-329
16. Valuers, Estate Agents and Surveyors	10-331
17. Veterinary Surgeons and Practitioners	10-365

11. HIGHWAYS AND TRANSPORT

1. Highways	11-01
(A) Maintenance of the highway	11-01
(B) Dangers on the Highway	11-19
(C) Dangers Adjoining the Highway	11-55
(D) Miscellaneous dangers in the highway	11-78
2. Carriers	11-86
(A) Generally	11-86
(B) Railways	11-103
(C) Road Carriage	11-143
(D) Ships	11-162
(E) Aircraft	11-175
(i) Common law liability	11-175
(ii) Civil Aviation Act 1982	11-180
(iii) Carriage by Air Conventions	11-185

(F) Hovercraft	11-197
3. Highway Users and Collisions	11-199
12. EMPLOYMENT AT COMMON LAW	
1. Common Law Duty of Employer	12-01
(A) Introduction	12-01
(B) Elements of the duty	12-24
(i) Safe place of work	12-27
(ii) Competent employees and supervision	12-52
(iii) Adequate plant and appliances	12-56
(iv) Safe system of work	12-77
(v) Other cases	12-108
2. Liability Between Fellow Employees	12-129
3. Liability of Employee to Employer	12-131

PART III: STATUTORY DUTY

13. LIABILITY FOR BREACH OF STATUTORY DUTY	
1. Introduction	13-01
2. Categories of Breach of Statutory Duty	13-05
3. When an Action may be Brought	13-24
4. Civil Liability and Health and Safety Regulations	13-66
5. Burden and Standard of Proof of a Breach of Statutory Duty	13-78
6. Defences to Action for Breach of Statutory Duty	13-86
7. Examples of Statutory Duty	13-101
(A) The Health and Safety at Work, etc., Act 1974	13-102
(B) The Framework Directive	13-111
(C) The Management of Health and Safety at Work Regulations 1999 (The Management Regulations)	13-120
(D) The Workplace (Health, Safety and Welfare) Regulations 1992 (The Workplace Regulations)	13-139
(E) The Work at Height Regulations 2005	13-177
(F) The Construction (Design and Management) Regulations 2015 (The 2015 Construction Regulations)	13-186
(G) The Provision and Use of Work Equipment Regulations 1998 (The Work Equipment Regulations 1998)	13-199
(H) The Lifting Operations and Lifting Equipment Regulations 1998 (The Lifting Regulations)	13-257
(I) The Control of Substances Hazardous to Health Regulations 2002	13-259
(J) The Personal Protective Equipment at Work Regulations 1992 (The Protective Equipment Regulations)	13-260
(K) The Manual Handling Operations Regulations 1992	13-265

PART IV: ABSOLUTE OR STRICT LIABILITY

14. DANGEROUS THINGS: RYLANDS V FLETCHER	
1. Principles of Liability	14-01
(A) Introduction	14-01
(B) Principles of liability	14-05

2. Defences	14-34
(A) Act of God	14-35
(B) Default of the claimant	14-40
(C) Consent of the claimant	14-42
(D) Independent act of third party	14-47
(E) Statutory Authority	14-53
3. Water	14-57
4. Fire	14-103
5. Gas	14-132
6. Electricity	14-160
7. Explosions and Explosives	14-173
8. Firearms	14-185
9. Poison and Pollution	14-199
10. Nuclear Installations	14-209
11. Aircraft and Spacecraft	14-221
15. ANIMALS	
1. Introduction	15-01
2. Strict Liability for Damage Done by Animals Generally	15-07
3. Strict Liability for Injury Caused to Livestock by Dogs	15-57
4. Strict Liability for Damage Done by Straying Livestock	15-64
5. Liability for Animals Straying on to Highways	15-93
6. Wider Liabilities at Common Law	15-96

16. PRODUCT LIABILITY

1. Consumer Protection	16-01
2. Liability in Contract	16-08
3. Liability under the Consumer Protection Act	16-22
(A) Under the Consumer Protection Act 1987: Part I "Product Liability"	16-22
(B) Under the Consumer Protection Act 1987: Part II "Consumer Safety"	16-74
4. Liability in Negligence	16-77
(A) The manufacturer's duty	16-78
(B) Duty of other transferors	16-119
(i) The retailer	16-124
(ii) Miscellaneous other transferors	16-137
5. Liability for Defective Digital Content	16-154

PART V: DEATH

17. DEATH AND CAUSES OF ACTION

1. The Common Law	17-01
2. The Accrual of a Cause of Action	17-04
(A) The Fatal Accidents Act 1976	17-05
(B) Other Statutory Provisions	17-73
(i) The Coal Mining (Subsidence) Act 1991	17-73
(ii) The Carriage by Air Act 1961	17-75
(iii) The Railways (Convention on International Carriage by Rail) Regulations 2005	17-76

3. The Survival of a Cause of Action	17-78
--	-------

PART VI: MISCELLANEOUS MATTERS

18. INSURANCE AND OTHER COMPENSATION SCHEMES	
1. Compulsory Insurance	18-01
(A) Motor insurance	18-02
(B) Employers' liability insurance	18-08
(C) Other compulsory insurance	18-09
2. The Motor Insurers' Bureau	18-10
(A) Uninsured drivers' agreement 2015	18-12
(B) Untraced drivers	18-24
3. Criminal Injuries Compensation	18-36
<i>Index</i>	1279

<http://www.pbookshop.com>