

TORTS LAW EXAM SUMMARY (WEEKS 1-11)

NEGLIGENCE

Duty of Care

Key Case: *Donoghue v Stevenson* [1932] AC 562

A duty of care arises where harm is reasonably foreseeable and the relationship falls within an established category or satisfies the salient features approach.

Established categories:

- Manufacturer → Consumer
- Doctor → Patient
- Employer → Employee
- Occupier → Visitor

Novel duties:

- Foreseeability
- Vulnerability
- Control
- Reliance
- Coherence
- Policy

(*Caltex Refineries v Stavar*)

Breach of Duty

Key Case: *Wyong Shire Council v Shirt* (1980) 146 CLR 40

Courts consider:

1. Probability of harm
2. Seriousness of harm
3. Burden of precautions

4. Social utility

Statute: *Wrongs Act 1958* (Vic) s 48

Causation

Key Case: *March v Stramare* (1991) 171 CLR 506

Test:

Would the injury have occurred but for the defendant's breach?

Statute: *Wrongs Act 1958* (Vic) s 50

Remoteness

Key Case: *The Wagon Mound (No 1)* [1961] AC 388

Only reasonably foreseeable types of damage are recoverable.

Thin Skull Rule: *Smith v Leech Brain* [1962] 2 QB 405

Take the plaintiff as you find them.

INTENTIONAL TORTS

Tort	Key Element
Battery	Direct physical contact
Assault	Apprehension of imminent contact
False Imprisonment	Total restraint
Trespass to Land	Unauthorised entry
Trespass to Goods	Direct interference with goods

DEFENCES

Intentional Torts

- Consent

- Self-defence
- Necessity

Negligence

- Contributory Negligence (*Wrongs Act* s 62)
- Voluntary Assumption of Risk
- Obvious Risks (s 54)
- Inherent Risks (s 55)

VICARIOUS LIABILITY

Key Case: *Hollis v Vabu Pty Ltd* (2001) 207 CLR 21

An employer may be liable for torts committed by an employee in the course of employment.

NON-DELEGABLE DUTIES

Key Case: *Kondis v State Transport Authority* (1984) 154 CLR 672

Certain relationships require a defendant to ensure reasonable care is taken.

Examples:

- Employer → Employee
- School → Student
- Hospital → Patient

DAMAGES

Compensatory

Restore plaintiff to pre-tort position.

Aggravated

Compensate additional humiliation or distress.

Exemplary

Punish outrageous conduct.

EXAM FORMULA

Damage

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Duty

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Breach

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Causation

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Remoteness

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Defences

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Damages

Must-Know Cases

- *Donoghue v Stevenson*
- *Caltex Refineries v Stavar*
- *Sullivan v Moody*
- *Wyong Shire Council v Shirt*
- *March v Stramare*
- *The Wagon Mound (No 1)*
- *Smith v Leech Brain*
- *Rootes v Shelton*
- *Hollis v Vabu*
- *Kondis*

Full Notes Include: Detailed case summaries, IRAC templates, negligence attack sheets, exam checklists, statutory provisions and master case tables.