

TORT LAW DEFENCES

James Goudkamp



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HART STUDIES IN PRIVATE LAW

Tort Law Defences Hart Studies In Private Law

**Andrew Dyson,James
Goudkamp,Frederick Wilmot-Smith**

Tort Law Defences Hart Studies In Private Law:

Tort Law Defences James Goudkamp, 2014-07-18 The law of torts recognises many defences to liability While some of these defences have been explored in detail scant attention has been given to the theoretical foundations of defences generally In particular no serious attempt has been made to explain how defences relate to each other or to the torts to which they pertain The goal of this book is to reduce the size of this substantial gap in our understanding of tort law The principal way in which it attempts to do so is by developing a taxonomy of defences The book shows that much can be learned about a given defence from the way in which it is classified This book has been awarded Joint Second Prize for the 2014 Society of Legal Scholars Peter Birks Prize for Outstanding Legal Scholarship *Defences in Tort* Andrew Dyson, James Goudkamp, Frederick Wilmot-Smith, 2015-02-26 This book is the first in a series of essay collections on defences in private law It addresses defences to liability arising in tort The essays range from those adopting a primarily doctrinal approach to others that examine the law from a more theoretical or historical perspective Some essays focus on individual defences while some are concerned with the links between defences or with how defences relate to the structure of tort law as a whole A number of the essays also draw upon concepts and literature that have been developed mainly in relation to the criminal law and consider their application to tort law The essays make several original contributions to this complex important but neglected field of academic enquiry *New Directions in Private Law Theory* Fabiana Bettini, Martin Fischer, Charles Mitchell, Prince Saprai, 2023-10-16 *New Directions in Private Law Theory* brings together some of the best new work on private law theory reflecting the breadth of this increasingly important field The contributions interrogate a wide range of topics including aspects of private law doctrine its development ordering and application The authors adopt a variety of different approaches and contribute to ongoing and important debates about the moral foundations of private law the individuation of areas of private law and the connections between private law and everyday moral experience Questions addressed include Does the diversity identified amongst claims in unjust enrichment mean that the category is incoherent Are claims in tort law always about compensating for wrongs How should we understand parties agreement in contract The contributions shed new light on these and other topics and the ways in which they intersect and open up new lines of scholarly enquiry The book will be of interest to researchers working in private law and legal theory but it will also appeal to those outside of law most notably researchers with an interest in moral and political philosophy economics and history

European Intermediary Liability in Copyright: A Tort-Based Analysis Christina Angelopoulos, 2016-09-15 In step with its rapid progress to the centre of modern social political and economic life the internet has proven a convenient vehicle for the commission of unprecedented levels of copyright infringement Given the virtually insurmountable obstacles to successful pursuit of actual perpetrators it has become common for intermediaries providers of internet related infrastructure and services to face liability as accessories Despite advances in policy at the European level the law in this area remains far from

consistently applicable This is the first book to locate and clarify the substantive rules of European intermediary accessory liability in copyright and to formulate harmonised European norms to govern this complicated topic With a detailed comparative analysis of relevant regimes in three major Member State jurisdictions England France and Germany the author elucidates the relationship between these rules and the demands of EU law on fundamental rights and the principles of European tort law She clearly presents the interrelations between such areas as the following accessory liability in tort joint tortfeasance European fault based liability fault causation defences negligence negligence balancing rights based or utility based Germany s disturbance liability St rerhaftung fair balance in human rights end users fundamental rights The European Commission s 2015 Communication on a Digital Single Market Strategy for Europe The E Commerce Directive and other relevant provisions Safe harbours mere conduit caching hosting Intermediary actions monitoring filtering blocking removal of infringing content and application of remedies damages and injunctions The strong points of each national system are highlighted as are the commonalities between them and the author uses these to build a proposed harmonised European framework for intermediary liability for copyright infringement She concludes with suggestions for the future possible integration of the proposed framework into EU law The issue of the liability of internet intermediaries for third party copyright infringement has entered into the political agenda across the globe giving rise to one of the most complex contentious and fascinating debates in modern copyright law This book offers an opportunity for a re conceptualisation and rationalisation of the applicable law in a way which additionally better accounts for the cross border nature of the internet It will be of inestimable value to many interested parties lawyers internet intermediaries NGOs policymakers universities libraries researchers lobbyists in matters regarding the information society

The Illegality Defence in Law Edit Deutch, 2025-06-30 The Illegality Defence posits that a cause of action cannot arise from a wrongful act Barring a claim through the application of this defence contradicts considerations of corrective justice as the defendant is released from liability even though the claimant would otherwise have been entitled to a remedy This book re examines the application of the Illegality Defence framing it as a State deprivation of property for the public good underscoring the necessity of constitutional protections in this context Offering a novel approach the work explores the development interpretation and application of the Illegality Defence within a constitutional framework bridging the gap between private and public law By delving into the structured concepts of proportionality it aims to establish a more refined legal model which is sensitive to the protection of human rights specifically the human right to property This approach seeks to enhance legal certainty and predictability in the application of the Illegality Defence The study will be essential reading for academics and researchers working in the areas of legal theory human rights law and jurisprudence

Wrongs, Harms, and Compensation Adam Slavny, 2023 In this work Adam Slavny explores our moral duties to respond to wrongs and harms and defends the significance of these duties for the normative foundations of tort law

Apportionment in Private Law Kit Barker, Ross

Grantham,2018-12-13 This collection of essays investigates the way in which modern private law apportions responsibility between multiple parties who are or may be responsible for the same legal event It examines both doctrines and principles that share responsibility between plaintiffs and defendants on the one hand and between multiple defendants on the other The doctrines examined include those originating doctrines which operate to create shared liabilities in the first place such as vicarious and accessorial liability and more centrally those doctrines that operate to distribute the liabilities and responsibilities so created These include the doctrine of contributory comparative negligence joint and several solidary liability contribution reimbursement and proportionate liability as well as defences and principles of equitable allowance that permit both losses and gains to be shared between parties to civil proceedings The work also considers the principles which apportion liability between multiple defendants and insurers in cases in which the cause or timing of a particular loss is hard to determine The contributions to this volume offer important perspectives on the law in the UK USA Canada Australia and New Zealand as well as a number of civilian jurisdictions They explicate the main rules and trends and offer critical insights on the growth and distribution of shared responsibilities from a number of different perspectives historical comparative empirical doctrinal and philosophical **Defences in Contract** Andrew Dyson,James Goudkamp,Frederick

Wilmot-Smith,2017-02-09 This book is the third in a series of essay collections on defences in private law It addresses defences to liability arising in contract The essays range from those adopting a predominantly black letter approach to others that examine the law from a more theoretical or historical perspective Some essays focus on individual defences while others are concerned with the links between defences or with how defences relate to the structure of contract law generally One goal of the book is to determine what light can be shed on contract law doctrines by analysing them through the lens of defences The contributors judges and academics are all leading jurists The essays are addressed to all of the major common law jurisdictions **The Evolution from Strict Liability to Fault in the Law of Torts** Anthony Gray,2021-02-25

Gradually the law of tort has shifted away from a strict liability approach to one where fault predominates This book charts important case law documenting this shift It seeks to understand how and why it occurred Given that the Rylands v Fletcher decision is typically seen as a prime exemplar of strict liability it focusses particularly on that case as part of the historical development of tort law It considers the intellectual arguments made in favour of strict liability and for fault based liability Having done so it then focusses on particular areas of the law of tort including nuisance defamation and trespass It is somewhat anomalous that though most would view these as examples of torts of strict liability fault considerations have become prominent in their application This presents an uneasy compromise where torts that are notionally strict in nature are infused with fault considerations often through exceptions or defences This book advocates for further development in the law of tort to better reflect a primarily fault based approach to liability at least in the common law This would make the law of tort more coherent **Harvard Law School Catalog** Harvard Law School,1997 Transnational Trends in Tort

Law ,1970 *Defences in Unjust Enrichment* ,2016 *Martindale Hubbell Law Directory* Martindale-Hubbell,2003-12
The Journal of International Maritime Law ,2006 Negligence and Illegality Sharon Erbacher,2017 Introduction
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