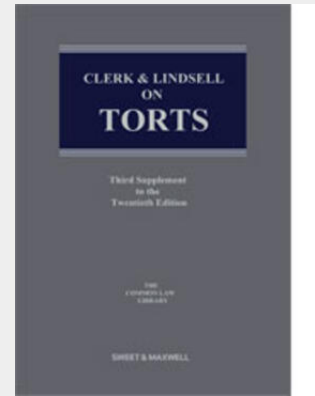


## Clerk & Lindsell on Torts

The Third Supplement brings the Main Work fully up to date with the latest developments, including decisions of the Supreme Court in: - Smith v Ministry of Defence where it was held that "combat immunity" did not apply to the provision of allegedly defective equipment or inadequate training to serving soldiers and that therefore the Ministry could owe a duty of care to service personnel killed or injured in a combat zone in some circumstances - Catholic Child Welfare Society v The Institute of the Brothers of the Christian Schools: an unincorporated association of lay brothers could be vicariously liable for an intentional tort committed by brothers who perform teaching duties at a school - Ruddy v Chief Constable of Strathclyde where the Supreme Court held that a damages claim based on violations of Art.3 of the European Convention on Human Rights should be permitted to proceed in relation to an alleged assault by police officers and an alleged failure to investigate the case - Financial Services Authority v Sinaloa Gold plc on whether the Financial Services Authority was required to give a cross-undertaking in damages for loss suffered by innocent third parties when seeking a worldwide freezing injunction of a person's assets who was suspected of fraudulent share-dealing - Hayes v Willoughby on the defence contained in s.1(3)(a) of the Protection from Harassment Act 1997 to an action for harassment - Vestergaard Frandsen A/S v Bestnet Europe Ltd on liability for breach of confidence in the use of trade secrets - R (Faulkner) v Secretary of State for Justice; R (Sturnham) v Parole Board on the principles applicable to Art.5(4) cases arising from delay in the review of a prisoner's detention - And in Crawford Adjusters v Sagacor General Insurance (Cayman) Ltd the Privy Council held that an action for malicious prosecution of civil proceedings could lie. A number of important decisions have also been handed down by the Court of Appeal: - In International Energy Group Ltd v Zurich Insurance Plc the Court of Appeal confirmed that the Supreme Court decision in Durham v BAI (Run Off) Ltd has, in effect, overruled the decision of the House of Lords in Barker v Corus - Joyce v O'Brien on the "causation test" for ex turpi causa defence - Les Laboratoires Servier v Apotex Inc on the nature of an unlawful act sufficient to engage the illegality defence - Smeaton v Equifax plc on whether a credit reference agency owes a duty of care to a person refused credit on the basis of adverse data on his credit file - Taylor v A Novo (UK) Ltd on who qualifies as a secondary victim for the purposes of a negligence action for "pure" psychiatric damage - Dwr Cymru Cyfyngedig (Welsh Water) v Barratt Homes Limited on the principle that a mere failure to perform a statutory duty will not normally give rise to a common law right to damages if the statute itself does not give rise to an action for breach of statutory duty - Chief Constable of Hampshire Police v Taylor on the burden of proving causation in an action based on breach of the Personal Protective Equipment at Work Regulations 1992 - Brumder v Motornet Service and Repairs Ltd where the Court of Appeal extended the defence in Ginty v Belmont Building Supplies and Boyle v Kodak to a case where the claimant was the sole director and shareholder of the defendant company, and had breached a different duty from the duty whose breach was the basis of his action - Gore v Stannard (t/a Wyvern Tyres) where the Court of Appeal considered the application of the rule in Rylands v Fletcher to cases of fire, and concluded that its scope is significantly narrower than previous interpretations of the rule appeared to suggest - Tamiz v Google Inc on the responsibility of the provider of an internet platform for blogging for defamatory content contained within individual blogs - Cruddas v Times Newspapers Ltd on whether accusing a politician of acting "corruptly" involved an allegation of criminal corruption for the purposes of defamation - Cairns v Modi and KC v MGN Ltd on damages awards in actions for libel - Force India Formula One Team Ltd v 1 Malaysia Racing Team Sdn Bhd on the measure of damages for unlawful use made of confidential information



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