

# PUBLICATIONS

*Prof. Ken Oliphant*

## Authored Books

1. *Torts* (with Alastair Mullis), Basingstoke: Palgrave Macmillan, 4th edn, 2011 (xxx + 401 pages). ISBN 9780230576759.
2. *Tort Law: Text & Materials* (with Mark Lunney), 4th edn., Oxford: Oxford University Press, 2010 (lix + 999 pages). ISBN 9780199571802
3. *Tort Law: Text & Materials* (with Mark Lunney), 3rd edn., Oxford: Oxford University Press, 2007 (lxiv + 994 pages). ISBN 9780199211364.
4. *Tort Law: Text & Materials* (with Mark Lunney), 2nd edn., Oxford: Oxford University Press, 2003 (lxii + 923 pages). ISBN 0 19 926055 9.
5. *Torts* (with Alastair Mullis), Basingstoke: Palgrave Macmillan, 3rd edn, 2003 (xxxiv + 422 pages). ISBN 0 333 96379 2.
6. *Tort Law: Text & Materials* (with Mark Lunney), 1st edn., Oxford: Oxford University Press, 2000 (lx + 819 pages). ISBN 0 19 876401 4.
7. *Torts* (with Alastair Mullis), Basingstoke: Macmillan Press Ltd, 2nd edn, 1997 (xxviii + 354 pages). ISBN 0 333 71903 4.
8. *Torts* (with Alastair Mullis), Basingstoke: Macmillan Press Ltd, 1st edn, 1993 (xxiv + 280 pages). ISBN 0 333 56418 9.

## Edited Books

9. *Symposium on Medical Malpractice and Compensation in Global Perspective* (with Richard W Wright), Part I, special symposium issue of the *ChicagoKentLaw Review* (vol 86 no 3, pp 1021–1301 (excluding other contributions)). ISSN 0009 3599.
10. *European Tort Law: Basic Texts* (with Barbara C Steininger), Vienna: Jan Sramek Verlag, 2011 (xvi + 330 pages). ISBN 978 3 902638 50 2.
11. *Aggregation and Divisibility of Damage, Tort and Insurance Law*, Vol. 26, Vienna: Springer, 2009 (xii + 568 pages). ISBN 9783211922088.
12. *European Tort Law*, King's Law Journal special issue (vol. 20 issue 2), Oxford: Hart Publishing, 2009 (120 pages, excluding other contributions). ISSN 0961 5768.
13. *The Law of Tort* (General Editor), 2nd edn., Butterworths Common Law Series, London: LexisNexis Butterworths, 2007 (ccxxvii + 1932 pages). ISBN 9781405712408.

## Reports

14. *Working Group on Civil Litigation Costs* (chair Ken Oliphant), *On a Slippery Slope – A Response to the Jackson Report*, February 2011, <http://ectil.org/oliphant/>
15. 'England', in B. Koch (ed.), *Liability in Cases of Damage Resulting from the Presence of GMOs in NonGMO Crops: A Report for the European Commission*, 2007.

## Papers in Academic Journals

16. 'Yangge Dance: the Rhythm of Liability for Medical Malpractice in the People's Republic of China' (2012) 87 *ChicagoKent Law Review* 000 (with Zhu Wang), forthcoming. ISSN 0009 3599.
17. 'Medical Malpractice and Compensation in Global Perspective: Introduction' (2011) 86 *ChicagoKent Law Review* 1021–1025 (with Richard W. Wright). ISSN 0009 3599.
18. 'Uncertain Factual Causation in the Third Restatement: Some Comparative Notes' (2011) 37 *William Mitchell Law Review* 1599–1632. ISSN 0270 272X.

19. 'European Tort Law: A Primer for the Common Lawyer' (2009) 62 *Current Legal Problems* 440 477. ISSN 0070 1998. [Volume published as C. O'Conneide (ed.), *Current Legal Problems 2009*, Oxford: OUP, 2010. ISBN 9780199583737.]

20. 'Compensation, Ideology and Patient Safety in New Zealand's No Fault System', *Opinio Juris in Comparatione*, Vol. 3/2009, Paper No. 3, pp. 1 19, <http://lider.lab.ssup.it/opinio>, online publication December 2009. ISSN: 2036 4423

21. 'Introduction: European Tort Law' (2009) 20 *King's Law Journal* 189 202. ISSN 0961 5768.

22. 'Loss of Chance in English Law' [2008] *European Review of Private Law* 1073 - 1083. ISSN 0928 9801.

23. 'Beyond Misadventure: Compensation for Medical Injuries in New Zealand' (2007) 15 *Medical Law Review* 357 391. ISSN 0967 0742.

24. 'Tort Personal Injury Claims Statistics: Is There a Compensation Culture In The United Kingdom?' (2006) 14 *Torts Law Journal* 158 (with R. Lewis and A. Morris). [Re published at [2006] *Journal of Personal Injury Law* 87 and (2006) 21 *Journal of Insurance Research and Practice* 16]

25. 'Parental Liability for the Acts of their Children (England and Wales)' [2004] *European Review of Private Law* 718 725. ISSN 0928 9801.

26. 'Beyond Woodhouse: Devising New Principles for Determining ACC Boundary Issues' (2004) 35 *Victoria University of Wellington Law Review* 915 936. ISSN 1171 042X.

27. 'Local authority liability for acts of children in foster care' [A commentary on *W v Essex County Council*] (1998) 10 *Child and Family Law Quarterly* 303 - 310. ISSN 1358 8184.

28. 'Unblurring the Boundaries of Nuisance' [A commentary on *Hunter v Canary Wharf*] (1998) 6 *Tort Law Review* 21 8. ISSN 1039 3285.

29. 'Tort' (1996) 49 *Current Legal Problems* (Part I: Annual Review) 29 62. ISBN 0 19 826279 5.

30. 'Defining Medical Misadventure: Lessons from New Zealand' (1996) *Medical Law Review* 1 31. ISSN 0967 0742.

31. 'Manslaughter: Recklessness or Gross Negligence?' [A note on *R. v. Adomako*] (1995 96) 6 *King's College Law Journal* 149 152.

32. 'Theft - Call in the Thought Police' [A note on *R. v. Gomez*] (1994 95) 5 *King's College Law Journal* 109 12.

33. 'Mind the Gap (Recklessness in the Lords)' [A note on *R. v. Reid*] (1993 94) 4 *King's College Law Journal* 69 71.

34. 'Savage Criticism' [A note on *R. v. Savage, R. v. Parmenter*] (1992) 3 *King's College Law Journal* 135 7.

35. 'Auditors' Liability' (1991) 7 *Professional Negligence* 22 29 (with A.C.L. Mullis).

## Chapters in Edited Works

36. 'Uncertain Causes: the Chinese Tort Liability Act in Comparative Perspective', in Chen Lei and Remco van Rhee (eds), *Towards a Chinese Civil Code: Historical and Comparative Perspectives*, Leiden: Brill, forthcoming 2012.

37. 'England and Wales', in Helmut Koziol and Barbara C Steininger (eds), *European Tort Law 2010*, pp. 121 147, Berlin: de Gruyter, forthcoming 2011 (with Annette Morris).

38. 'Ten Years On: The Case in European Tort Law (A Comparative Analysis)', in Helmut Koziol and Barbara C Steininger (eds), *European Tort Law 2010*, pp. 644 - 660, Berlin: de Gruyter.

39. 'Damage' (with Katarzyna Ludwiczowska), in Attila Fenyves/Ernst Karner/Helmut Koziol/Elisabeth Steiner (eds), *Tort Law in the Jurisprudence of the European Court of Human Rights*, pp. 397 447, Berlin: de Gruyter.

40. 'Defamation', in David Hoffman (ed), *The Impact of the UK Human Rights Act on Private Law*, pp. 195-205, Cambridge: Cambridge University Press, 2011. ISBN 9781107009325.
41. 'Anglické právo a proporcionální odpovědnost' [English law and proportional liability], in Lubo Tich et al (eds), *Prokazování příčinné souvislosti multikauzálních kod [Proof of causation of multi causal damage]*, pp. 30-40, Prague: Universita Karlova v Praze, 2011. ISBN 9788087488101. [In Czech.]
42. 'Private and Social Insurance' in Carolyn Sappideen and Prue Vines (eds), *Fleming's The Law of Torts*, pp. 415-430, Australia: Law Book Co, 2011. ISBN 9780455217987.
43. 'England and Wales', in Ken Oliphant and Barbara C Steininger (eds), *European Tort Law: Basic Texts*, pp. 49-62, Vienna: Jan Sramek Verlag, 2011. ISBN 978 3 902638 50 2.
44. 'Rival Perspectives on European Tort Law (A Comparative Analysis)' in H. Koziol and B.C. Steininger (eds.), *European Tort Law 2009*, pp. 666-694, Berlin: de Gruyter, 2010. ISBN 9783110246063.
45. 'England and Wales' in H. Koziol and B.C. Steininger (eds.), *European Tort Law 2009*, pp. 13-68, Berlin: de Gruyter, 2010 (with Annette Morris). ISBN 9783110246063.
46. 'Damage Caused by GMOs under English Law' in B.A. Koch (ed.), *Damages Caused by Genetically Modified Organisms: Comparative Survey of Redress Options for Harm to Persons, Property or the Environment*, pp. 86-109, Berlin: de Gruyter, 2010. ISBN 9783899498110.
47. 'Proportional Liability', in Bea Verschraegen (ed.), *Interdisciplinary Studies of Comparative and Private International Law (Vol. 1)*, pp. 179-200, Vienna: Jan Sramek Verlag, 2010. ISBN 9783902638199.
48. 'Tort', in Lord Mackay of Clashfern (ed.), *Halsbury's Laws of England*, 5th edn. (2010), vol. 97, pp. 287-484. ISBN 9781405734394.
49. 'Alternative Causation: A Comparative Analysis of Austrian and English Law', in *Festschrift für Helmut Koziol*, pp. 795-812, Vienna: Jan Sramek Verlag, 2010. ISBN 9783902638342.
50. 'Fairchild v Glenhaven Funeral Services Ltd (2002)', in C. Mitchell and P. Mitchell (eds.), *Landmark Cases in the Law of Tort*, pp. 335-358, Oxford: Hart, 2010. ISBN 9781849460033.
51. 'Aggregation and Divisibility of Damage in England and Wales: Tort Law', in: K. Oliphant (ed.), *Aggregation and Divisibility of Damage*, pp. 95-124, Vienna: Springer, 2009. ISBN 9783211922088.
52. 'Aggregation and Divisibility of Damage in Tort Law and Insurance: Comparative Summary' (with M. Steininger), in: K. Oliphant (ed.), *Aggregation and Divisibility of Damage*, pp. 473-517, Vienna: Springer, 2009. ISBN 9783211922088.
53. 'Concluding Reflections on the Aggregation and Divisibility of Damage in Tort Law and Insurance', in: K. Oliphant (ed.), *Aggregation and Divisibility of Damage*, pp. 519-545, Vienna: Springer, 2009. ISBN 9783211922088.
54. 'England and Wales', in H. Koziol and B.C. Steininger (eds.), *European Tort Law 2008*, pp. 213-239, Vienna: Springer, 2009. ISBN: 9783211927977.
55. 'Comparative Remarks', in H. Koziol and B.C. Steininger (eds.), *European Tort Law 2008*, pp. 658-675, Vienna: Springer, 2009. ISBN: 9783211927977.
56. 'Economic Loss Caused by GMOs in the United Kingdom: England and Wales', in B. Koch (ed.), *Economic Loss caused by Genetically Modified Organisms: Liability and Redress for the Adventitious Presence of GMOs in NonGM Crops*, pp. 505-527, Vienna: Springer, 2008. ISBN 978 3 211 77987 3.
57. 'England and Wales', in H. Koziol and B.C. Steininger (eds.), *European Tort Law 2007*, pp. 237-254, Vienna: Springer, 2008. ISBN: 9783211779910.
58. 'Comparative Remarks', in H. Koziol and B.C. Steininger (eds.), *European Tort Law 2007*, pp. 617-631, Vienna: Springer, 2008. ISBN: 9783211779910.
59. 'Accident Compensation in New Zealand: An Overview', in G. Schamps (ed.), *Evolution des droits du patient, indemnisation sans faute des dommages liés aux soins de santé: le droit médical en mouvement*, pp. 435-453, Editions Bruylant, 2008. ISBN: 9782802725275.
60. 'The Nature and Assessment of Damages', in H. Koziol and R. Schulze (eds.), *Tort Law of the European Community*, pp. 241-271, Springer, 2008. ISBN: 9783211775851.
61. 'England and Wales', in H. Koziol and B.C. Steininger (eds.), *European Tort Law 2006*, pp. 153-177, Vienna: Springer, 2007. ISBN: 9783211709375.
62. 'Comparative Remarks', in H. Koziol and B.C. Steininger (eds.), *European Tort Law 2006*, pp. 499-513, Vienna: Springer, 2007. ISBN: 9783211709375.
63. 'System Influences on Judicial Innovation in Causation Cases in the English Law of Torts', in M. Pauknerova et al. (eds.), *Changes of Judicial Culture and Decision Making in Different Branches of Law: Collection of Papers (Workshop 2006)*, pp. 87-101, Prague: Cardiff Law School and Faculty of Law Charles University, 2007. ISBN 978 80 85889 90 1.
64. 'Landmarks of No Fault in the Common Law', in W. Van Boom and M. Faure (eds.), *Shifts in Compensation (vol. III): Between private and public systems*, Vienna: Springer, 2007, 43-85. ISBN 9783211715536.
65. 'The Nature of Tortious Liability' in K. Oliphant (ed.), *The Law of Tort, 2nd edn.*, Butterworths Common Law Series, London: LexisNexis Butterworths, 2007, 1-38. ISBN 9781405712408.
66. 'Joint and Several Liability in Tort' (with Vivienne Harpwood) in K. Oliphant (ed.), *The Law of Tort, 2nd edn.*, Butterworths Common Law Series, London: LexisNexis Butterworths, 2007, 165-180. ISBN 9781405712408.
67. 'Injunctions and Other Remedies' in K. Oliphant (ed.), *The Law of Tort, 2nd edn.*, Butterworths Common Law Series, London: LexisNexis Butterworths, 2007, 373-435. ISBN 9781405712408.
68. 'Liability of Employers' in K. Oliphant (ed.), *The Law of Tort, 2nd edn.*, Butterworths Common Law Series, London: LexisNexis Butterworths, 2007, 1033-1084. ISBN 9781405712408.
69. 'The Economic Torts' in K. Oliphant (ed.), *The Law of Tort, 2nd edn.*, Butterworths Common Law Series, London: LexisNexis Butterworths, 2007, 1533-1616. ISBN 9781405712408.
70. 'The Structure of the Intentional Torts', in J. Neyers, S. Pitel and E. Chamberlain (eds.), *Emerging Issues in Tort Law*, Oxford: Hart Publishing, 2007, 509-531. ISBN: 1841137073/9781841137070.
71. 'Children as Victims under the Law of England and Wales', in M. Martin Casals (ed.), *Children in Tort Law, Part II: Children as Victims*, pp. 65-88, Vienna: Springer, 2006. ISBN: 3211311300.
72. 'Children as Tortfeasors under the Law of England and Wales', in M. Martin Casals (ed.), *Children in Tort Law, Part I: Children as Tortfeasors*, Vienna: Springer (2006), 147-168. ISBN 3 211 24480 8.
73. 'England and Wales', in H. Koziol and B.C. Steininger (eds.), *European Tort Law 2005*, pp. 221-250, Vienna: Springer, 2006. ISBN: 3211311351
74. 'Rylands v Fletcher and the Emergence of Enterprise Liability in the Common Law' in H. Koziol and B. Steininger (eds.), *European Tort Law 2004 (Tort and Insurance Law Yearbook)*, Vienna: Springer, 81-120. ISSN 1616 8623.
75. 'England and Wales' in H. Koziol and B. Steininger (eds.), *European Tort Law 2004 (Tort and Insurance Law Yearbook)*, Vienna: Springer, 227-247. ISSN 1616 8623.

76. 'Auditors' Liability in England' in H. Koziol/W. Doralt (eds) *Ab-schlussprüfer: Haftung und Versicherung [Auditors: Liability and Insurance]* (Tort and Insurance Law, vol. 12) Vienna: Springer (2004), 41 - 63. ISBN 3 211 20800 3.

77. 'England and Wales' in H. Koziol and B. Steininger (eds.), *European Tort Law 2003* (Tort and Insurance Law Yearbook), Vienna: Springer (2004), 113 ISBN 3 211 21033 4.

78. 'England and Wales' in H. Koziol and B. Steininger (eds.), *European Tort Law 2002* (Tort and Insurance Law Yearbook), Vienna: Springer (2003), 142 - 65. ISBN 3 211 00486 6

79. 'England and Wales' in H. Koziol and B. Steininger (eds.), *European Tort Law 2001* (Tort and Insurance Law Yearbook), Vienna: Springer (2002), 131 - 175. ISBN 3 211 83824 4.

80. 'The Nature of Tortious Liability' in A. Grubb (ed.), *The Law of Tort*, London: Butterworths (2002), 1 - 30. ISBN 0 406 89672 0.

81. 'Injunctions and Other Remedies' in A. Grubb (ed.), *The Law of Tort*, London: Butterworths (2002), 297 348. ISBN 0 406 89672 0.

82. 'Liability of Employers' in A. Grubb (ed.), *The Law of Tort*, London: Butterworths (2002), 839 882. ISBN 0 406 89672 0.

83. 'The Economic Torts' in A. Grubb (ed.), *The Law of Tort*, London: Butterworths (2002), 1201 72. ISBN 0 406 89672 0.

84. 'Class Actions for Mass Torts', in U. Göranson (ed.) *Modern Legal Issues: An Anglo-Swedish Perspective*, Uppsala: Iustus Förlag AB, 1993, 129 153. ISBN 91 7678 256 5.

85. 'Innovations in Procedure and Practice in Multi party Medical Cases', in A. Grubb (ed.), *Choices and Decisions in Health Care*, Chichester: Wiley, 1993, 184-203. ISBN 0 471 93621 9.

86. 'Religious Discrimination in Northern Ireland: Lessons for us all', in J.M. Hayes & P. O'Higgins (eds) *Lessons From Northern Ireland*, Belfast: SLS, 1990, 79 - 86. ISBN 0 85389 372 1.

#### Published Conference Papers

87. « Pluralité de responsables en droit anglo saxon », Conference on La causalité dans le droit de la responsabilité civile européenne, Groupe de recherche en responsabilité civile (GRERC), Geneva, 26 27 March 2010, <http://www.greca.univrennes1.fr/digitalAssets/240/240103—KOliphant.pdf>

88. « Le régime général néo zélandais », Cour de Cassation, Colloques: Cycle Risques, assurances, responsabilités: L'équité dans la réparation du prejudice, <http://www.courdecassation.fr/formation—br—4/2006—55/regime—general—neo—zelandais—9653.html>.

89. 'Accident Compensation in New Zealand', Cour de Cassation, Colloques: Cycle Risques, assurances, responsabilités: L'équité dans la réparation du prejudice, <http://www.courdecassation.fr/formation—br—4/2006—55/in—new—9652.html>.

90. « Le système d'indemnisation néo zélandais », in *L'indemnisation des accidents médicaux en Europe: approche comparé*. Journée d'études organisée par l'Office National d'Indemnisation des Accidents Médicaux. Compte rendu, pp. 41 44, 2005.

#### Professional Journal Papers

91. 'Tort Personal Injury Claims Statistics: Is There a Compensation Culture In The United Kingdom?' (2006) 21 *Journal of Insurance Research and Practice* 16 (with R. Lewis and A. Morris). [Re published from (2006) 14 *Torts Law Journal* 158, above.]

92. 'Professional Negligence' (1993) 11 *Professional Practice Management* 99 - 101.

#### Book Reviews

93. Review, 'Draft Common Frame of Reference, Book VI: Noncontractual liability arising out of damage to another. Ed by Christian von Bar and Eric Clive' (2011) 15 *Edinburgh Law Review* 309-11

94. Review, 'Multiparty Actions. Edited by Chris Hodges' (2002) 65 *Modern Law Review* 304 5.

95. Review, 'Clinical Negligence. By M. Powers and N. Harris' (2002) 10 *Medical Law Review* 103 4.

96. Review, 'Economic Torts. By Tony Weir' (1999) 62 *Modern Law Review* 320 3.

97. Review, 'McGregor on Damages. Sixteenth edition. By Harvey McGregor QC' (1998 99) 9 *King's College Law Journal* 176 8.

98. Review, 'Philosophical Foundations of Tort Law. Edited by David G. Owen' (1997 98) 8 *King's College Law Journal* 163 4.

99. Review, 'Negotiating Tragedy: Law and Disasters. By Celia Wells' (1996 97) 7 *King's College Law Journal* 162 3.

100. Review, 'The Idea of Private Law. By Ernest J. Weinrib' (1995 96) 6 *King's College Law Journal* 164 5.

101. Review, 'J. Wall (ed.), *Compensation and Accountability: Keeping the Balance [and other books]*' (1995) 3 *Medical Law Review* 322 6.

102. Review, 'Compensation for Industrial Disease. By N.J. Wikeley' (1994 95) 5 *King's College Law Journal* 205 7.

103. Review, 'The Jury Under Attack. Edited by M. Findlay & P. Duff' (1989) 104 *Law Quarterly Review* 160 3.

#### Submissions to law reform bodies, etc

104. K. Oliphant, 'Consultation on Auditors' Liability and its Impact on the European Capital Markets: Comments on the Commission Staff Working Paper', 4.06.2007, available online at <http://circa.europa.eu/Public/irc/market/market—consultations/library?l=abschlussprfung/abschlussprfrn/ken—oliphant—enpdf/—EN—1.0—&a=d> (last accessed 27 January 2010).

#### Other Publications

105. 'England', in B Winiger, H Koziol, BA Koch and R Zimmermann (eds.), *Digest of European Tort Law. Volume 2: Essential Cases on Damage*, Berlin: de Gruyter, 2011.

106. 'England and Wales', in Ken Oliphant and Barbara C Steininger (eds.), *European Tort Law: Basic Texts*, pp. 49-62, Vienna: Jan Sramek Verlag. ISBN 978 3 902638 50 2.

107. 'Damages', in P. Cane and J. Conaghan (eds.), *The New Oxford Companion to Law*, Oxford: Oxford University Press, 2008. ISBN: 9780199290543.

108. 'Pain and Suffering', in P. Cane and J. Conaghan (eds.), *The New Oxford Companion to Law*, Oxford: Oxford University Press, 2008. ISBN: 9780199290543.

109. 'England', in B Winiger, H Koziol, BA Koch and R Zimmermann (eds.), *Digest of European Tort Law. Volume 1: Essential Cases on Natural Causation* (32 pp, not consecutive), Springer, 2007. ISBN: 3211369579.

110. 'Nuisance' and 'Tort: Analysis and Reform', in *Law Courseware Consortium*, Iolis, CD ROM (1995).