INDEX

Alcohol liability

duty of care, 85-97

Atkin, Lord

Auctioneers

Employers

duties of commercial providers, 121-126

formulation of "neighbourhood", 89-90

conversion of goods by return to consignor, 5-7

Child abuse liability in Britain, 63-70 JD v East Berkshire Community Health NHS Trust, 64-66 no duty of wrongly suspected abusers, 66-68 Child sexual abuse duties of care, 12-17 Conversion of goods auctioneers' return to consignor, 5-7 **Duty of care** alcohol liability duties of commercial providers, 121-126 social host liability, 164-175 approaches, 86-87 inadequacies of, 87-89 incremental or categories approach, 87-88 over-arching principles approach, 88-89 salient features approach, 88 Canada, in, 167-169 child sexual abuse, 12-17 children, 64-66 High Court cases, 85-97 return to first principle, 90-96 Annetts v Australian Stations Pty Ltd duty of care issue, 91-93 facts, 90-91 Graham Barclay Oysters Pty Ltd v Ryan duty of care issue, 94-95 facts, 93-94 Gifford v Strang Patrick Stevedoring Pty Ltd duty of care issue, 95-96 facts, 95

workplace trauma or death, psychiatric injury following, 59-63

vicarious liability - see Vicarious liability

```
work stress, duty of care for psychiatric injury caused by, 126-130
```

Exemplary damages

pathologist's negligence, 8-12 sexual abuse, 48-50

Foreseeability – see also Remoteness

psychiatric injury, of, 79-84 social host liability, 170-173

Injury

mental – *see* **Psychiatric injury** psychiatric – *see* **Psychiatric injury**

Limitation defences

sexual abuse, 42-44 Trade Practices Act, 74-75 **Linden, Allen M**, 57-58

Mental injury - see Psychiatric injury

Negligence

duty of care – see Duty of care foreseeability – see Foreseeability neighbourhood

Lord Atkin's formulation, 89-90 universality of principle, 96-97 outrageous, 8-12 pathologist, 8-12 remoteness – see Remoteness standard of care – see Standard of care vicarious liability for – see Vicarious liability

Nervous shock – see Psychiatric injury

Objective standard of care

negligence and especially capable defendants, 111-113

Pathologist

negligence, 8-12

Personal injury

compensation reform in Hong Kong, 176-181
actuarial tables in England, 177
Chan Pui Ki at the Court of First Instance, 177-179
Hong Kong Court of Appeal, 178-179
need for reform, 179
interdisciplinary research between law and actuarial science, 180-181

```
social host liability, 170-173
Psychiatric injury
   foreseeability test, 79-84
   work stress
    employers' duty of care, 126-130
   Trade Practices Act amendments – see Trade Practices Act
   workplace trauma or death, following, 59-63
    relatives of injured worker, 61-63
    worker witnessing injury, 59-61
Remoteness
   reasonable foreseeability test, 147-163
    autonomous remoteness of damage rule, 156-163
        causality-type consideration and individual justice, 160-161
        financial impecuniosity, 158-160
        just and fair rule for recovery, 161-163
        justice for weak and disadvantaged, 157-160
                 thin shell skulls, 157-158
    conclusion, 163
    Wagon Mound and its controversies, 148-156
        problems with foresight test, 149-156
                 critique of Wagon Mound, 152-156
                 historical perspective, 149-153
Sexual abuse – see also Child sexual abuse
   tort actions by victims, 40-50
    causes of action, 41-42
    direct liability of Crown for exemplary damages, 49-50
    limitation defences, 42-45
    vicarious liability, 45-48
        exemplary damages, 48-49
Sexual assault
   vicarious liability, 23-28
Shock - see Psychiatric injury
Social host liability, 164-175
   Childs v Desormeaux, 165-174
    commercial hosts and social hosts, 169-170
    Cooper/Anns framework, 167-169
    factual background, 165-167
    foreseeability and proximity, 170-173
    policy considerations, 173-174
```

discount rate, 180 illustration, 181

definition, 75-79

Proximity,

judicial support of research project, 181

```
conclusion, 174-175
Sports participants
  vicarious liability, 131-146
    cases, 138-144
    conclusions, 144-146
    future, 138
    negligence, 134-135
    recent developments in English law, 136-138
    violent players, 131-146
Standard of care
  objective
    negligence and especially capable defendants, 111-113
Trade Practices Act
  damages for mental injury, 71-84
    limitation periods, 74-75
    "personal injury" defined, 75-78
    proposed amendments, 73-74
    Zoneff v Elcom Credit Union Ltd, 81-83
Vicarious liability
  employers, 18-39
    course of employment, 21-23
    negligence-based torts, 28-34
        frolics, 35-39
        performance, 35
        recommended approach, 34-39
    policy justifications, 20-21
    sexual assault, 23-28
  sexual abuse - see Sexual abuse
  sports participants – see Sports participants
Work stress
  employer's duty of care for psychiatric injury, 126-130
Workplace trauma or death
  psychiatric injury following, 59-63
Wrongful death
  discounting damages in action brought by surviving spouse, 98-110
    abolition of action for wrongful death, 108-110
    Australia, 102-103
    calculating damages prior to De Sales, 101-102
        fact of new relationship, 102
        prospects of new relationship, 101-102
    Canada, 103-104
    De Sales v Ingrilli, 99
        fact of new relationship, 107-108
```

prospects of new relationship, 104-107 use of statistics, 108 legislation and nature of action, 99-101 basic elements of action, 100-101 standing, 100 United Kingdom, 103 United States, 104