

Revision Summary Chapter 16

Vicarious liability

- Vicarious liability generally involves the imposition of liability on employers for the tortious acts of their employees. The imposition of vicarious liability does not depend upon the employer being at fault.
- Vicarious liability does not create a cause of action; rather, it allows an existing cause of action to be relied on against the tortfeasor's employer.
- Employers cannot be vicariously liable for the acts of their independent contractors, but in certain circumstances, they may be personally liable.
- The employee's tortious act must have been committed in the course of his employment.
- The close connection test asks whether there was so close a connection between that task and the tort committed by the employee that it would be fair and just to impose vicarious liability on the employer.
- An employer deemed vicariously liable still has access to certain tortious defences (for example, *volenti non fit injuria* and contributory negligence).
- As vicarious liability is joint and several, the claimant can sue either the employer or the employee.
- An employer deemed vicariously liable can seek a contribution from the employee who committed the tort.