
TABLE OF CONTENTS

<i>Preface</i>	v
<i>Table of Cases</i>	xi
<i>Table of Statutes</i>	xix
<i>Table of Abbreviations</i>	xxiii
1. The Social and Legal Background	1
I. Introduction	1
1. The Treatment Context	2
2. The Regulation of Medical Practice	4
II. The Framework of Private Law	6
1. Comparative Background	6
2. Medical Malpractice in Tort and Contract	9
(a) England: The Primacy of Tort	9
(b) Germany: The Primacy of Contract	11
III. The Scope of the Patient's Protected Interests	12
1. The Position in England	13
(a) Bodily Integrity and Health	13
(b) Other Interests	15
2. The Position in Germany	17
(a) Bodily Integrity and Health	17
(b) Other Interests	18
IV. Preliminary Conclusions and Following Structure	22
2. Treatment Malpractice—The Substantive Law	25
I. Introduction	25
II. Establishing Malpractice	26
1. A Fault-Based Approach to Liability	26
(a) England: Negligence Liability	27
(b) Germany: Negligent Breach of Contract	28
2. The Standard of Care Expected of the Doctor	30
(a) England: The Reasonably Skilled Practitioner	30
(b) Germany: Required Care Under § 276 II BGB	35
3. Establishing Lack of Care: The Role of Accepted Practice	39
(a) England: The <i>Bolam</i> Test	39
(b) Germany: A Stricter Approach	43

Table of Contents

III. Causation of Damage	46
1. Factual Causation	46
(a) England: The ‘But For’ Test	47
(b) Germany: The <i>Conditio Sine Qua Non</i> formula	49
2. Legal Causation/Remoteness of Damage	51
(a) England: The Reasonable Foreseeability Test	52
(b) Germany: <i>Adäquater Kausalzusammenhang</i> and <i>Schutzzweck</i>	54
IV. Comparative Assessment	57
3. Treatment Malpractice—Proof Issues	61
I. Introduction	61
II. The General Approach to Proof	62
1. England: An Adversarial System	63
2. Germany: An Inquisitorial System	64
III. Modifying the Normal Proof Rules to Assist the Patient?	67
1. Establishing the Primary Facts	67
(a) England: Inferences from the Information Available	68
(b) Germany: Presumptions in Cases of Missing Records	68
2. Inferring Malpractice from the Occurrence of Injury	70
(a) England: <i>Res Ipsa Loquitur</i>	70
(b) The Position in Germany	73
(i) <i>Anscheinsbeweis</i>	73
(ii) Fully Masterable Risks	74
3. Dealing with Problems of Causal Uncertainty	76
(a) The Position in England	77
(i) Keeping the Burden on the Patient	77
(ii) The Rejection of Claims for ‘Loss of Chance’	79
(b) The Position in Germany	84
(i) Proof Relaxations in Cases of ‘Secondary Harm’	84
(ii) Proof Relaxations in Misdiagnosis Cases	86
(iii) Reversals of Proof in Cases of ‘Gross’ Treatment Errors	87
IV. Comparative Assessment	92
4. Disclosure Malpractice	95
I. Introduction	95
II. Consent and the Disclosure of Treatment Information	96
1. England: Battery vs. Negligence	97
2. Germany: A Unitary Approach	100
III. The Required Standard of Disclosure	102
1. England: From Accepted Practice to Informed Consent	102
2. Germany: Beyond Informed Consent	107
IV. Causation of Damage	113
1. The Position in England	113

Table of Contents

(a) Factual causation	113
(b) Legal Causation	115
2. The Position in Germany	117
(a) Legal Causation (<i>Schutzzweck der Norm</i>)	118
(b) The Defence of Hypothetical Consent	120
V. Proof Issues	122
1. England: Parallels with Treatment Malpractice	122
2. Germany: A Distinct Framework	124
VI. Comparative Assessment	126
5. Reforming Medical Negligence Law	129
I. Introduction	129
II. Dissatisfaction with Private Law in Medical Injury Claims	130
1. Criticisms of the Fault-Based Approach	130
2. The No-Fault Option—the New Zealand and Swedish Models	133
III. Reform Initiatives in England and Germany	136
1. Developments in England	136
(a) Pearson and the General Rejection of No-Fault	136
(b) Developments in the 1980s and 90s	139
(c) <i>Making Amends</i> and the NHS Redress Act 2006	141
2. Developments in Germany	144
(a) The General Rejection of No-Fault	144
(b) The System of Medical Arbitration Boards	146
(c) Current Initiatives	148
IV. Comparative Assessment	150
6. Conclusions	155
<i>Deutsche Zusammenfassung</i> (German Summary)	165
<i>Bibliography</i>	171
<i>Index</i>	179

TABLE OF CASES

English cases

<i>A and others v National Blood Authority</i> [2001] 3 All ER 289.....	139
<i>Abbas v Kenney</i> (1996) 7 Med LR 47.....	113
<i>Adams v Rhymney Borough Council</i> (2000) 150 NLJ 1231.....	39
<i>Airedale NHS Trust v Bland</i> [1993] AC 789	97
<i>Appleby v Sleep</i> [1968] 2 All ER 265	9
<i>Appleton v Garrett</i> [1997] 8 Med LR 75	98
<i>Bagley v North Herts Health Authority</i> (1986) 136 NLJ 1014.....	83
<i>Ball v Wirral Health Authority</i> [2003] Lloyd's Rep Med 165.....	34
<i>Barker v Corus Ltd</i> [2006] UKHL 20.....	79
<i>Barnett v Chelsea & Kensington Hospital Management Committee</i> [1969] 1 QB 428	14, 47, 77–8
<i>Benarr v Kettering Health Authority</i> (1988) 138 NLJ 179.....	15
<i>Blyth v Birmingham Waterworks Co</i> (1856) 11 Exch 781.....	30
<i>Blyth v Bloomsbury Health Authority</i> (1993) 4 Med LR 151	105
<i>Bolam v Friern Hospital Management Committee</i> [1957] 1 WLR 582	31–32, 39, 63
<i>Bolitho v City and Hackney Health Authority</i> [1998] AC 232	41–42, 48–49
<i>Bonnington Castings Ltd v Wardlaw</i> [1956] AC 613	78
<i>Brown v Lewisham and North Southwark Health Authority</i> [1999] Lloyd's Rep Med. 110	53
<i>Bull v Devon Area Health Authority</i> (1993) 4 Med LR 117.....	33–34
<i>Burne v A</i> [2006] EWCA Civ 24.....	42
<i>Burton v Islington Health Authority</i> [1992] 3 All ER 833	14
<i>Carslogie Steamship Co Ltd v Royal Norwegian Government</i> [1952] AC 292	52, 116
<i>Cassidy v Ministry of Health</i> [1951] 2 KB 343	71
<i>Chatterton v Gerson</i> [1981] QB 432	99, 113, 122
<i>Chester v Afshar</i> [2004] UKHL 41	95, 105–106, 114–116, 118, 122
[2002] 3 All ER 533 (CA)	114, 122
<i>Chin Keow v Government of Malaysia</i> [1967] 1 WLR 813.....	42–43
<i>Clark v MacLennan</i> [1983] 1 All ER 416.....	42, 83
<i>Cork v Kirby Maclean Ltd</i> 1952] 2 All ER 402.....	47
<i>Crawford v Charing Cross Hospital</i> (CA), The Times, 8 December 1953.....	32

Table of Cases

<i>Cull v Royal Surrey County Hospital</i> (1932) 1 BMJ 1195	97
<i>De Freitas v O'Brien</i> [1995] PIQR P281	40, 68
<i>Delaney v Southmead Health Authority</i> (1995) 6 Med LR 355	70–71
<i>Devi v West Midlands Regional Health Authority</i> (1981) (CA Transcript 491)	98
<i>Donoghue v Stevenson</i> [1932] AC 562	14
<i>Edward Wong Finance Co Ltd v Johnston Stokes and Masters</i> [1984] AC 296	40
<i>Empire Jamaica, The</i> [1957] AC 386	121
<i>Eyre v Measday</i> [1986] 1 All ER 488	28
<i>F (a mental patient sterilisation), Re</i> [1990] 2 AC 1	98
<i>Fairchild v Glenhaven Funeral Services</i> [2002] 3 WLR 89	78–79, 81
<i>Glasgow Corporation v Muir</i> [1943] AC 448	31–32
<i>Glass v Cambridge Health Authority</i> (1995) 6 Med LR 91	71
<i>Gold v Haringey Health Authority</i> [1988] 1 QB 481	105
<i>Gregg v Scott</i> [2005] UKHL 2	80–82, 94
<i>Hatcher v Black, The Times</i> , 2 July 1954	103
<i>Hepworth v Kerr</i> (1995) 6 Med LR 139	52–53, 117
<i>Hills v Potter</i> [1984] 1 WLR 641	98
<i>Hogan v Bentinck Collieries</i> [1949] 1 All ER 588	54
<i>Hotson v East Berkshire Health Authority</i> [1987] 1 AC 750	80, 82, 83, 84
<i>Hughes v Lord Advocate</i> [1963] AC 837	52
<i>Hunter v Hanley</i> (1955) SC 200 (SCOT)	43
<i>Jobling v Associated Dairies</i> [1982] AC 794	48
<i>Joyce v Merton, Sutton and Wandsworth Health Authority</i> (1996) 7 Med LR 1	41
<i>Judge v Huntingdon Health Authority</i> [1995] 6 Med LR 223	83
<i>Kay v Ayrshire and Arran Health Board</i> [1987] 2 All ER 417	68, 77, 89
<i>Kent v Griffiths</i> [2001] QB 36	35
<i>Lee v South West Thames Regional Health Authority</i> [1985] 1 WLR 845	132
<i>Letang v Cooper</i> [1965] QB 232	13
<i>Lillywhite v University College London Hospitals NHS Trust</i> [2005] EWCA Civ 1466	72
<i>Loveday v Renton</i> (1990) 1 Med LR 117	77
<i>Marriott v West Midlands Health Authority</i> [1999] Lloyd's Rep Med 23	42
<i>Maynard v West Midland Regional Health Authority</i> [1984] 1 WLR 634	40, 68

Table of Cases

<i>MB (Adult: Refusal of Treatment), Re</i> [1997] 2 FLR 426.....	97
<i>McFarlane v Tayside Health Board</i> [2000] 2 AC 59.....	16–17, 19, 21, 54, 155
<i>McGhee v National Coal Board</i> [1972] 3 All ER 1008	78
<i>McKay v Essex Area Health Authority</i> [1982] 1 QB 1166.....	14, 155
<i>Moyes v Lothian Health Board</i> (1990) 1 Med LR 463 (SCOT)	117
<i>Nettleship v Weston</i> [1971] 2 QB 691	32–33
<i>North Glamorgan NHS Trust v Walters</i> [2002] EWCA 1792.....	15
<i>Ng Chun Pui v Lee Chuen Tat</i> [1988] RTR 298.....	70
<i>Parkinson v St James and Seacroft University Hospital NHS Trust</i>	
[2001] EWCA Civ 530	16
<i>Pearce v United Bristol Health Care NHS Trust</i> [1999] PIQR P53	105–106, 110
<i>Penney v East Kent Health Authority</i> [2000] Lloyd’s Rep Med 41	42, 64
<i>Pippin v Sheppard</i> (1822) 11 Price 400	14
<i>Pithers v Leeds Teaching Hospitals NHS Trust</i> [2004] EWHC 1392	72
<i>Potts v North West Devon Regional Health Authority</i> (1983, unreported)	98
<i>R v Adomoko</i> (1994) 5 Med LR 27	5
<i>R v Amrit Misra</i> [2004] EWCA Crim 2375.....	5
<i>R v Bateman</i> (1925) 19 Cr App Rep 8	9
<i>R v Croydon Health Authority</i> (1997) 40 BMLR 40.....	20, 54
<i>R v Tabassum</i> [2000] Lloyd’s Rep Med 404.....	97
<i>Rahman v Arearose Ltd</i> [2000] 3 WLR 1184.....	54
<i>Ratcliffe v Plymouth and Torbay Health Authority</i> [1998] PIQR P170	68, 71–72, 92
<i>Rees v Darlington Memorial Hospital</i> [2003] UKHL 52	16–17, 155
<i>Reynolds v The Health First Medical Group</i> [2000] Lloyd’s Rep Med 240.....	10
<i>Robinson v Post Office</i> [1974] 2 All ER 737	47
<i>Roe v Minister of Health</i> [1954] 2 QB 66.....	32, 71
<i>Rylands v Fletcher</i> (1868) LR 3 HL 330	27
<i>Scott v London & St Katherine’s Docks Co</i> (1865) 3 H & C 596	70
<i>Sidaway v Board of Governors of the Bethlehem Royal Hospital</i> [1985] AC 871	28, 31, 40, 43, 98–99, 102, 104, 123
<i>Sion v Hampstead Health Authority</i> (1994) 5 Med LR 170.....	15
<i>Smith v Barking, Havering and Brentwood Health Authority</i> (1994) 5 Med LR 285.....	114, 123–124
<i>Smith v Leech Brain & Co Ltd</i> [1962] 2 QB 405	52
<i>Smithers v Taunton and Somerset NHS Trust</i> [2004] EWHC 1179	35, 38
<i>South Australia Asset Management Corp v York Montague Ltd</i> [1997] AC 191	53–54
<i>Stevens v Bermondsey and Southwark Group Hospital Management Committee</i> (1963) 107 SJ 478	15

Table of Cases

<i>Stokes v Guest, Keen and Nettlefold (Bolts and Nuts) Ltd</i> [1968] 1 WLR 1776.....	32
<i>T (Adult: Refusal of Treatment), Re</i> [1992] 3 WLR 782	97
<i>Thake v Maurice</i> [1986] QB 644.....	15, 28
<i>Thompson v Bradford</i> [2005] EWCA Civ 1439.....	53, 56, 117
<i>Thompson v Sheffield Fertility Clinic</i> (QBD, unreported, 24 November 2001)	17
<i>Wagon Mound (No 1), The</i> [1961] AC 388.....	52
<i>Whitehouse v Jordan</i> [1980] 1 All ER 650 (CA)	41, 63
<i>Wieland v Cyril Lord Carpets</i> [1969] 3 All ER 1006.....	54
<i>Williamson v East London Health Authority</i> [1998] Lloyd's Rep Med 6	98
<i>Wilsher v Essex Area Health Authority</i> [1988] AC 1074 (HL).....	78–79
[1987] QB 730 (CA).....	10, 32–33, 35, 42, 131
<i>Wisniewski v Central Manchester Health Authority</i> [1998] PIQR P324	53, 68
 US and Commonwealth cases	
<i>Arndt v Smith</i> [1997] 2 SCR 539 (CAN).....	114
<i>Canterbury v Spence</i> (1972) 464 F 2d 772 (US)	103, 106, 114
<i>Chappel v Hart</i> (1998) 72 ALJR 1344 (AUS)	114, 116–117, 123
<i>Corey v Havener</i> (1902) 182 Mass 250, 65 NE 69 (US).....	48
<i>Girard v Royal Columbian Hospital</i> (1976) 66 DLR (3d) 676 (CAN)	72
<i>Herskovits v Group Health Cooperative of Puget Sound</i> (1983) 664 P 2d 474 (US).....	84
<i>LaFleur v Cornelis</i> (1979) 28 NBR (2d) 569 (CAN)	28
<i>Natanson v Kline</i> (1960) 350 P 2d 1093 (US).....	99
<i>Reibl v Hughes</i> (1981) 114 DLR (3d) 1 (CAN)	99, 103, 114
<i>Rogers v Whitaker</i> (1992) 109 ALR 625 (AUS).....	103, 114
<i>Rosenberg v Percival</i> (2001) 75 ALJR 734 (AUS)	103, 114
<i>Salgo v Leland Stanford Junior University Board of Trustees</i> (1957) 154 Cal App 2d 560 (US).....	99
<i>Schloendorff v New York Hospital</i> (1914) 211 NY 125 (US).....	97
<i>ter Neuzen v Korn</i> (1995) 127 DLR (4th) 577 (CAN)	41
 German cases	
RG, 31 May 1894, RGSt 25, 375.....	100
RG, 1 March 1912, RGZ 78, 432	107
RG, 8 March 1940, RGZ 163, 129	107
RG, 17 May 1943, RGZ 171, 168.....	88
 BVerfG, 25 July 1979, NJW 1979, 1925	66, 108
BVerfG, 28 May 1993, NJW 1993, 1751	20
BVerfG, 12 November 1997, NJW 1998, 519.....	21

Table of Cases

BGH, 27 February 1952, VersR 1952, 180	73
BGH, 27 November 1952, NJW 1953, 257	35, 44
BGH, 20 December 1952, NJW 1953, 417	18
BGH, 22 June 1955, VersR 1955, 573	73
BGH, 21 December 1955, VersR 1956, 499	88
BGH, 2 July 1957, NJW 1958, 627	56
BGH, 28 November 1957, NJW 1958, 267	100
BGH, 9 December 1958, NJW 1959, 811	108
BGH, 16 January 1959, NJW 1959, 814	112
BGH, 28 April 1959, VersR 1959, 598	88
BGH, 13 June 1960, NJW 1961, 600	36
BGH, 26 June 1962, VersR 1962, 960	88
BGH, 16 October 1962, NJW 1963, 393	108
BGH, 13 November 1962, VersR 1963, 67	51, 85
BGH, 13 October 1964, NJW 1965, 345	44
BGH, 11 June 1965, VersR 1965, 792	74
BGH, 12 March 1968, NJW 1968, 1185	89
BGH, 11 June 1968, NJW 1968, 2291	88
BGH, 17 February 1970, BGHZ 53, 245	65
BGH, 16 November 1971, NJW 1972, 335	108
BGH, 16 May 1972, VersR 1972, 887	36
BGH, 22 April 1975, NJW 1975, 1463	67, 146
BGH, 7 June 1977, NJW 1977, 2120	11
BGH, 11 October 1977, NJW 1978, 584	30, 45, 74
BGH, 14 March 1978, NJW 1978, 1681	66, 69
BGH, 9 May 1978, NJW 1978, 1683	74, 85, 90
BGH, 26 June 1978, NJW 1978, 2337	69
BGH, 15 May 1979, NJW 1979, 1933	66
BGH, 19 June 1979, VersR 1979, 826	45
BGH, 22 January 1980, NJW 1980, 1333	121
BGH, 18 March 1980, NJW 1980, 1450	20
BGH, 24 June 1980, NJW 1980, 2751	66, 108
BGH, 19 May 1981, VersR 1981, 752	67
BGH, 16 June 1981, NJW 1981, 2513	88, 90
BGH, 21 September 1982, NJW 1983, 333	89
BGH, 9 November 1982, NJW 1983, 332	69
BGH, 23 November 1982, NJW 1983, 328	69
BGH, 30 November 1982, NJW 1983, 1374	12
BGH, 18 January 1983, NJW, 1371	18, 155
BGH, 10 May 1983, NJW 1983, 2080	88
BGH, 27 September 1983, NJW 1984, 655	37, 76

Table of Cases

BGH, 24 January 1984, NJW 1984, 1403.....	69, 75
BGH, 7 February 1984, NJW 1984, 1395.....	109, 118
BGH, 7 February 1984, NJW 1984, 1397.....	109, 112, 120, 125, 128
BGH, 28 February 1984, NJW 1984, 1810.....	110
BGH, 17 April 1984, NJW 1984, 1823.....	65-66
BGH, 19 June 1984, NJW 1984, 2625.....	20
BGH, 23 October 1984, NJW 1985, 676.....	117
BGH, 8 January 1985, NJW 1985, 1399.....	124
BGH, 26 February 1985, NJW 1985, 2192.....	109
BGH, 7 May 1985, NJW 1985, 2193.....	69, 76
BGH, 17 September 1985, VersR 1985, 1187.....	43, 67
BGH, 1 October 1985, NJW 1986, 1541.....	120, 125
BGH, 19 November 1985, NJW 1986, 780.....	109
BGH, 21 November 1985, NJW 1986, 779.....	69
BGH, 3 December 1985, NJW 1986, 1540.....	89
BGH, 24 June 1986, NJW 1987, 705.....	51
BGH, 13 January 1987, NJW 1987, 1481.....	125
BGH, 3 February 1987, NJW, 1987, 1482.....	70, 86
BGH, 10 February 1987, NJW 1987, 1479.....	37
BGH, 10 March 1987, NJW 1987, 2291.....	43
BGH, 7 July 1987, NJW 1987, 2927.....	45
BGH 22 September 1987, NJW 1988, 763.....	38, 110, 112
BGH, 28 June 1988, NJW 1988, 2948.....	90
BGH, 28 June 1988, NJW 1988, 2949.....	69, 89
BGH, 20 September 1988, NJW 1989, 767.....	18, 56
BGH, 6 December 1988, NJW 1989, 1538.....	18
BGH, 13 December 1988, NJW 1989, 1541.....	118
BGH, 24 January 1989, NJW, 1989, 2330.....	69
BGH, 14 February 1989, NJW 1989, 1533.....	109, 119
BGH, 30 May 1989, NJW 1989, 2321.....	38
BGH, 8 May 1990, NJW 1990, 2929.....	109
BGH, 11 December 1990, NJW 1991, 1543.....	38, 125
BGH, 18 December 1990, NJW 1991, 1540.....	74
BGH, 8 January 1991, NJW 1991, 1541.....	75
BGH, 29 January 1991, VersR 1991, 469.....	36
BGH, 12 March 1991, NJW 1991, 2346.....	119
BGH, 30 April 1991, NJW 1991, 1948.....	73
BGH, 7 April 1992, NJW 1992, 2351.....	111
BGH, 2 March 1993, NJW 1993, 2378.....	43, 66
BGH, 23 March 1993, NJW 1993, 2375.....	89
BGH, 26 October 1993, NJW 1994, 801.....	90
BGH, 16 November 1993, NJW 1994, 788.....	20

Table of Cases

BGH, 14 December 1993, NJW 1994, 1596.....	86
BGH, 10 May 1994, NJW 1994, 2419	66–67
BGH, 14 June 1994, NJW 1994, 2414	121
BGH, 4 July 1994, NJW 1995, 126	55
BGH, 4 October 1994, NJW 1995, 778	89
BGH, 28 March 1995, NJW 1995, 1609.....	21
BGH, 24 January 1995, NJW 1995, 1618	75
BGH, 14 February 1995, NJW 1995, 1611	69
BGH, 4 April 1995, NJW 1995, 2410	125
BGH, 29 June 1995, NSTZ 96 132.....	101
BGH, 14 November 1995, VersR 1996, 195	119
BGH, 21 November 1995, NJW 1996, 776	111
BGH, 13 February 1996, NJW 1996, 1589.....	70, 87
BGH, 16 April 1996, NJW 1996, 2429	89
BGH, 1 October 1996, NJW 1997, 796	89, 91
BGH, 24 June 1997, NJW 1997, 3090	37
BGH, 13 January 1998, NJW 1998, 1780	87
BGH, 27 January 1998, NJW 1998, 1782	88, 91
BGH, 17 March 1998, NJW 1998, 2734.....	111
BGH, 6 October 1998, NJW 1999, 860	70, 84, 87
BGH, 4 October 1999, NJW 2000, 885	101
BGH, 15 February 2000, NJW 2000, 1782.....	20
BGH, 15 February 2000, NJW 2000, 1784.....	109, 111, 120
BGH, 22 February 2000, NJW 2000, 1788.....	110
BGH, 12 June 2000, VersR 2000, 1282	91
BGH, 13 February 2001, NJW 2001, 1786.....	36, 39
BGH, 30 January 2001, NJW 2001, 2798.....	120
BGH, 29 May 2001, NJW 2001, 2792	88
BGH, 3 July 2001, NJW 2001, 2795	88
BGH, 18 June 2002, NJW 2002, 2636	21
BGH, 18 March 2003, NJW 2003, 1862.....	111
BGH, 27 April 2004, NJW 2004, 2011	87, 89, 157
BGH, 21 December 2004, NJW 2005, 891.....	21
BGH, 15 March 2005, NJW 2005, 1718.....	110, 125
BGH, 5 April 2005, NJW 2005, 2072	125
BGH, 31 January 2006, NJW 2006, 1660.....	21
BGH, 13 June 2006, NJW 2006, 2477	111
OLG Frankfurt, 26 January 1978, VersR 1979, 39	49
OLG Frankfurt, 1 December 1982, NJW 1983, 341	20
OLG Hamm, 30 April 1986, VersR 1987, 1119.....	73
OLG Hamm, 18 June 1997, VersR 1998, 1243.....	76

Table of Cases

OLG Karlsruhe, 3 March 1993, VersR 1994, 860	120, 125
OLG Köln, 18 December 1986, VersR 1988, 140	75
OLG Stuttgart, 15 May 1997, VersR 1998, 1111	120
OLG Stuttgart, 13 April 1999, VersR 2000, 1108	45
OLG Zweibruecken, 13 May 1997, MedR 1997, 358	73

TABLE OF STATUTES

England

Civil Liability (Congenital Disabilities) Act 1976	14
Consumer Protection Act 1987	138–139, 145
s 3	138–139
s 4(1)(e)	139
Data Protection Act 1998	68
Freedom of Information Act 2000	107
Medical Act 1983	4
Medical (Professional Performance) Act 1995	4
National Health Service Act 1948	3
NHS Redress Act 2006	23, 143–144
s 1(4)	143
s 1(6)	143
s 6(3)	144
s 6(5)	143
s10(3)	144
Offences Against The Person Act 1861	5, 97
Supply of Goods and Services Act 1982	
s 13	28
Vaccine Damages (Compensation) Act 1979	138

Germany

Arzneimittelgesetz (AMG)	
§ 41, nr 7	111
§ 84	144–146
Bürgerliches Gesetzbuch (BGB)	
§ 31	12
§ 89	12
§ 249 I	12
§ 253 II	11
§ 276 I	8, 29, 45
§ 276 II	8, 30, 35–36, 43, 57, 166
§ 278	12
§ 280 I	8, 17, 28–29, 45
§§ 611 ff	29
§§ 631 ff	29

Table of Statutes

§§ 677 ff.....	11
§ 680	38
§ 823 I	8, 18–19, 30, 51, 56, 85, 101, 126
§ 823 II.....	19
§ 826	19
§ 830 I.....	84
§ 839 I.....	12
§ 844	11
§ 847 (ex).....	11, 18
Contergangesetz (ConterganG)	144
Grundgesetz (GG)	
art 1 I.....	20, 100
art 2 I.....	100
art 2 II	20, 100
art 103 I.....	66
HIV-Hilfegesetz (HIVHG).....	146
Krankenversicherungsgesetz (KVG).....	3
Produkthaftungsgesetz (ProdHaftG).....	145
Sozialgesetzbuch, Buch V (SGB)	
§ 76 IV	11
§ 95	5
§ 137	150
Strafgesetzbuch (StGB)	
§ 218 a I	21
§ 218 a II.....	21
§ 222	6
§ 223	100
§ 229	6
Strafprozessordnung (StPO)	
§ 153	6
Straßenverkehrsgesetz (StVG)	27
Unterstützungsabschlussgesetz (UntAbschlG)	146
Zivilprozessordnung (ZPO)	
§ 286.....	51, 65, 73, 84, 87, 124–125
§ 287.....	51, 84–85, 90, 124
Other	
<i>European Union</i>	
Product Liability Directive 85/374/EC.....	138, 145
<i>Former German Democratic Republic</i>	
Anordnung über die Erweiterung der materiellen Unterstützung der Bürger bei Schäden infolge medizinischer Eingriffe	145

Table of Statutes

Zivilgesetzbuch-DDR
§ 334145–146

New Zealand

Accident Compensation Act 1972134
Accident Rehabilitation and Compensation Insurance Act 1992134
s. 5134
Injury Prevention, Rehabilitation, and Compensation Act 2001
(as amended).....134–135
s. 32.....134-135
s. 33(1)134

Sweden

Patientskadslag (Patient Damages Act) 1996.....135
§ 6135
§ 7135