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RESTITUTION  
AND EQUITY  
VOLUME 1:  
RESULTING TRUSTS  
AND EQUITABLE  
COMPENSATION

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EDITED BY  
PETER BERKS AND  
FRANCIS ROSE

FOREWORD BY  
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# Restitution And Equity 1 Resulting Trusts And Equitable Compensation

**Peter Birks, Francis Rose**



## **Restitution And Equity 1 Resulting Trusts And Equitable Compensation:**

**Restitution and Equity Volume 1: Resulting Trusts and Equitable Compensation** Peter Birks, Francis Rose, 2020-11-25 The first part of this volume collates papers from the Second Mansfield Symposium which examined the areas of equity trusts and restitution The second part addresses the emerging field of equitable compensation and its implications *Restitution and Equity* Peter Birks, Francis D. Rose, 2000 **The Principles of Equity & Trusts** Graham Virgo, 2018 The Principles of Equity and Trusts brings an engaging contextual approach to the subject Graham Virgo overcomes the complex issues in the study of trusts and equity with unparalleled clarity offering a rigorous and insightful commentary on the law and its contemporary contexts , Constructive and Resulting Trusts Charles Mitchell, 2010-03-03 Constructive and resulting trusts have a long history in English law and the law which governs them continues to develop as they are pressed into service to perform a wide variety of different functions for example to support the working of express trusts and other fiduciary relationships to allocate family property rights and to undo the consequences of commercial fraud However while their conceptual flexibility makes them enormously useful it also makes them hard to understand In the twelve essays collected in this volume the authors shed new light on various aspects of the law governing constructive and resulting trusts revisiting current controversies bringing new historical material to the fore and offering new theoretical perspectives *Trusts Law* Graham Moffat, Gerry Bean, Rebecca Probert, 2009-09-03 Always the serious student's choice of a Trusts Law textbook this new edition once again provides a clear examination of the rules in the detail required by the advanced undergraduate This fifth edition retains its hallmark combination of a contextualized approach and a commercial focus The authors commentary has been increased throughout this new edition whilst the fresh design clearly highlights the cases and materials extracts Recent statutory developments such as the Charities Act 2006 and the impact of a wealth of new cases are explored the examination of the law of trusts and taxation is restructured and comparative examples help students understand the new directions being taken in the areas of trust law and equitable remedies *Trusts Law* brings a modern perspective to a subject often perceived as traditional with suggestions for further reading guiding the student to contemporary debates **Equity & Trusts** Alastair Hudson, 2014-05-27 This new edition considers all of the academic commentary governing the area of equity and trusts in particular the emerging law of restitution and the raft of new case law over the 1990s It is suitable both as a scholarly reference and as a resource for students **Remedies in Australian Private Law** Katy Barnett, Sirko Harder, 2018-09-07 The second edition of Remedies in Australian Private Law offers readers a clear and detailed introduction to remedies and their functions under Australian law Clearly structured with a strong black letter law focus the text provides a complete treatment of remedies in common law equity and statute and develops a framework for understanding the principles of private law remedies and their practical application This edition has been significantly revised and offers up to date coverage of case law and legislation including the

Australian Consumer Law Building on the detailed treatment of remedies and their broad functions across a range of private law categories the new edition also offers expanded coverage of vindictory damages debt specific restitution and coercive remedies With its systematic and accessible approach this text enables students and practitioners to develop a coherent understanding of remedial law and to analyse legal problems and identify appropriate remedial solutions Justifying Private Law Remedies C.E.F. Rickett, 2008-06-26 In August 2006 the third Australian Obligations Conference was hosted in Brisbane by the TC Beirne School of Law The theme of the Conference was Justifying Private Law Remedies This book contains a number of the papers delivered at that Conference presented under several categories but all dealing with the fundamental issue of justification General Concepts Performance Compensation Punishment and Restitution and Disgorgement The authors are largely drawn from the legal academy and include Canadian Australian British and New Zealand scholars The collection will be of interest to all those concerned with the role nature and place of remedies in the private law of the common law world **The Oxford Handbook of Fiduciary Law** Evan J. Criddle, Paul B. Miller, Robert H. Sitkoff, 2019-04-29 The Oxford Handbook of Fiduciary Law provides a comprehensive overview of critical topics in fiduciary law and theory through chapters authored by leading scholars The Handbook opens with surveys of the many fields of law in which fiduciary duties arise including agency law trust law corporate law pension law bankruptcy law family law employment law legal representation health care and international law Drawing on these surveys the Handbook offers a synthetic analysis of fiduciary law s key concepts and principles Chapters in the Handbook explore the defining features of fiduciary relationships clarify the distinctive fiduciary duties that arise in these relationships and identify the remedies available for breach of fiduciary duties The volume also provides numerous comparative perspectives on fiduciary law from eminent legal historians and from scholars with deep expertise in a diverse array of the world s legal systems Finally the Handbook lays the groundwork for future research on fiduciary law and theory by highlighting cross cutting themes identifying persistent theoretical and practical challenges and exploring how the field could be enriched through empirical analysis and interdisciplinary insights from economics philosophy and psychology Unparalleled in its breadth and depth of coverage The Oxford Handbook of Fiduciary Law represents an invaluable resource for practitioners policymakers scholars and students in this essential field of law **Measuring Damages in the Law of Obligations** Sirko Harder, 2010-07-12 This book challenges certain differences between contract tort and equity in relation to the measure in a broad sense of damages Damages are defined as the monetary award made by a court in consequence of a breach of contract a tort or an equitable wrong In all these causes of action damages usually aim to put the claimant into the position the claimant would be in without the wrong Even though the main objective of damages is thus the same for each cause of action their measure is not While some aspects of the measure of damages are more or less harmonised between contract tort and equity e.g. causation in fact and mitigation significant differences exist in relation to 1 remoteness of damage which is the question of whether

when and to which degree damage needs to be foreseeable to be recoverable 2 the compensability of non pecuniary loss such as pain and suffering distress and loss of reputation 3 the effect of contributory negligence which is the victim's contribution to the occurrence of the wrong or the ensuing loss through unreasonable conduct prior to the wrong 4 the circumstances under which victims of wrongs can claim the gain the wrongdoer has made from the wrong and 5 the availability and scope of exemplary or punitive damages For each of the five topics this book examines the present position in contract tort and equity and establishes the differences between the three areas It goes on to scrutinise the arguments in defence of existing differences The conclusion on each topic is that the present differences between contract tort and equity cannot be justified on merits and should be removed through a harmonisation of the relevant principles

**Structure and Justification in Private Law** C.E.F. Rickett, Ross Grantham, 2008-02-27 Peter Birks's tragically early death and his immense influence around the world led immediately to the call for a volume of essays in his honour by scholars who had known him as a colleague teacher and friend One such volume published in 2006 contained essays largely from scholars working in England Mapping the Law Essays in Memory of Peter Birks edited by Andrew Burrows and Lord Rodger This volume contains the essays of those outside England who chose to honour Peter and appears later than the English volume reflecting the far flung habitations of its authors The essays contained in this volume are focussed around the law of unjust enrichment but are not narrowly preoccupied instead they move freely from unjust enrichment to some of the most profound questions in private law concerning taxonomy the relationship between contract property and unjust enrichment and the place of remedies within private law This volume featuring the work of some of the world's great private lawyers provides a fitting tribute to a great scholar and a series of thought provoking essays inspired by his example Contributors Kit Barker Michael Bryan Peter Butler Hanoch Dagan Simone Degeling Daniel Friedmann Mark Gergen Ross Grantham Steve Hedley John McCamus Mitchell McInnes Eoin O'Dell Charles Rickett Struan Scott Emily Sherwin Stephen Smith Richard Sutton Michael Tilbury Stephen Waddams Peter Watts Ernest Weinrib Eric Descheemaeker

**Consequences of Impaired Consent Transfers** Birke Häcker, 2013-11-25 Legal rules and principles do not exist in isolation but form part of a system In this structural comparison between English and German law Birke Häcker explores the rules and principles governing impaired consent transfers of movable property and their reversal in two and three party situations This book is a republication of a work first published by Mohr Siebeck in Germany

**Principles of Equity and Trusts** Alastair Hudson, 2021-11-24 This is the second edition of Principles of Equity and Trusts the concise new textbook from Alastair Hudson the author of the definitive classic Equity and Trusts Through clear and careful analysis the author explains what the law is its foundational principles and its social and economic effect By beginning with the core principles on which this field is based even the most complex academic debates concerning express resulting and constructive trusts the family home charities law and other equitable doctrines become comprehensible and interesting This book offers a fresh lively and often humorous account of Equity and Trusts Through easy

to follow worked examples and analysis of the case law Alastair helps you to answer problem questions and to prepare coursework The author shows how the law affects real people in real situations Each chapter begins with a clear and concise introduction to the core principles It contains numbered headings for ease of navigation and advice on studying this subject Students also have access to Professor Hudson's ever popular supporting website which has had hundreds of thousands of hits over the years It has over 50 brief podcasts on key issues which have been specially re-recorded to coincide with the publication of this book That website also contains detailed lectures a variety of videos explaining the law and guidance on tackling assessments Characterised by the passion and enthusiasm for his subject matter that make Alastair Hudson's classic textbook so popular **Principles of Equity and Trusts** is sure to be a winner with both academics and students alike

**The Principles of Equity and Trusts** Graham Virgo, 2012-05-03 The Principle of Equity and Trusts offers students a new approach to this dynamic area of law Professor Graham Virgo has created a rigorous yet accessible student companion which draws the field in its contemporary context offering a critical and insightful commentary on the law its application and development The text communicates the dynamic and thought provoking nature of this area of law and reflect the modern understanding of the subjects as propounded both by the judiciary and commentators The text offers a student focused approach providing a clearly written and accessible guide to this most fascinating area of law while equally providing the critical rigour and referencing expected from academics in the field The Principle of Equity and Trusts promises to be a new classic in the field of equity and trusts textbook one which is admired by lecturers and students alike

**Pearce & Stevens' Trusts and Equitable Obligations** Robert A. Pearce, Warren Barr, 2015 Pearce Stevens Trusts and Equitable Obligations provides students with a detailed and stimulating account of the law of equity and trusts The authors clear and authoritative writing illuminates the law and its practical application

**The Principle of Unjust Enrichment** Alexander Schall, 2024-12-16 The principle of unjust enrichment came into fruition under English law in the last decade It is now accepted that the four stage test enrichment at the expense unjust factor and no defences triggers remedies in restitution Unjust enrichment resembles Civilian unjustified enrichment in many ways But it also differs considerably in others just as do French and German unjustified enrichment The book aims to explain this

**Equity and Trusts** Alastair Hudson, 2009-09-11 Equity and Trusts is an ideal textbook for undergraduate courses on the law of trusts and equitable remedies It provides a clear current and comprehensive account of the subject through which the author's enthusiasm and expertise shine through helping to bring to life an area of the law which students often find difficult Beginning with the core principles Professor Hudson reinforces the key points by means of clear examples throughout each chapter helping students to build and develop their own knowledge of equity and trusts

**Restitution and Insolvency** Francis D. Rose, 2000 The application of restitution and insolvency law has increased in recent years These two areas of law were discussed at the annual conference of the restitution section of the Society of Public Teachers of Law in Leeds in September 1999 The revised papers are joined

here by a variety of papers from other sources and explore a range of topical subjects of common interest to restitution and insolvency from theoretical comparative and practical perspectives      *Lessons of the Swaps Litigation* Peter Birks, Francis Rose, 2020-11-25 This is the first comprehensive review of the extent of remedies and impact of contractual agreements on restitution claims for void unenforceable and discharged contracts

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