# MODERN INTERNATIONAL DEVELOPMENTS IN TRUST LAW

DAVID HAYTON



# **Modern International Developments In Trust Law**

Philip R. Wood

#### **Modern International Developments In Trust Law:**

Modern International Developments in Trust Law David Hayton, 1999-03-10 This book is concerned with the development of the trust idea in common law jurisdictions whether mainland or offshore and in civil law jurisdictions While trusts are important for preserving family wealth and influence over ninety per cent of the value of trust funds is found in commercial or financial trusts about which little has been written It is interest in the latter type of trust that is likely to lead to the development of the trust idea in European mainland jurisdictions especially as the economic destinies of European jurisdictions become increasingly intertwined and as the Hague Convention on the Recognition of Trusts comes to be implemented In this volume the work of leading trust scholars in Canada England the USA Germany and Japan is brought together to explore key issues in trust law until now not covered in any single resource the full elasticity of the trust concept the variety and significance of commercial or financial trusts the scope for reforming trust law in various jurisdictions to make it more economically efficient in assisting in the preservation and generation of wealth the potential for the development of a core trust concept in civil law jurisdictions as a special part of the law of obligations without any need to create equitable proprietary interests in favour of beneficiaries Modern International Developments in Trust Law will be of interest not only to academic trust lawyers and comparative lawyers but to common law and civil law practitioners whether interested in taking advantage of foreign trust laws or in developing in their local jurisdictions new ideas obtained from foreign jurisdictions The Modern Cy-près Doctrine Rachael Mulheron, 2016-04-08 It is unusual in the precise world of law to find instances of where near enough is good enough This book explores when this is possible referring to property and monetary transfers under the increasingly important and influential cy pr s doctrine The doctrine decrees that when literal compliance is impossible or infeasible the intention of a donor or testator should be carried out as nearly as possible Over the past thirty years this doctrine has marched into other legal territory where as near as possible is also considered sufficient such as in class actions litigation and under non charitable trusts Discussing and analyzing key developments across the Commonwealth jurisdictions and the USA this book considers whether there is a new and overarching definition which can be attributed to the cy pr s doctrine It asks whether there is a doctrinal symmetry of analysis that truly renders it a body of cy pr s law in the modern context and whether the doctrine can be expected to play an even greater role in the future This book is of interest to researchers and practitioners working in trusts and charity law property law contract law and class actions The Hague Trusts Convention Jonathan Harris, 2002-05-04 Trusts cross borders When they do real jurisprudence difficulties may arise Will the understanding of what a trust is be different in a foreign state Will the rights powers and duties of the trustee and settlor be the same What rights will the beneficiary be able to assert To what extent will the trust assets be safe from the claims of creditors forced heirs or third parties Which legal system will be applied to the trust Within what limits What if the trust needs to be recognised in a state which does not have the institution of the trust in its domestic law

The Hague Trusts Convention enacted into English law by the Recognition of Trusts Act 1987 seeks to ameliorate the situation by providing harmonised choice of law rules for trusts created voluntarily and evidenced in writing It also provides for the recognition of trusts in Contracting States Those Contracting States should recognise the trust even if they do not have the institution in their domestic law This book is the first published in England to devote itself to a detailed analysis of the Convention It is aimed at academics and practitioners at private international lawyers and at trust lawyers Frequent reference is made to the position in civil law states especially in the Contracting States of Italy and the Netherlands and in other trust states both offshore and onshore The Haque Trusts Convention deals with the operation of the trust itself It does not deal with the preliminary steps needed to create a trust These preliminary matters raise highly complex and uncharted choice of law issues Detailed discussion of these matters is also provided and appropriate solutions suggested and Trusts Alastair Hudson, 2013 Alastair Hudson's 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 challenging Fully updated and revised this Seventh Edition contains an analysis of Jones v Kernott and trusts of homes a new treatment of dishonest assistance and unconscionable receipt a full treatment of the law on super injunctions coverage of all of the trusts law cases precipitated by the collapse of Lehman Brothers a reflection on women and equity and the politics of trusts law a new treatment of the Hastings Bass princip and analysis of over 200 new cases and the Perpetuities and Accumulations Act 2009 Equity and Trusts remains the most comprehensive and up to date coverage of the law of Equity and Trusts while still a lively and thoughtful account of the issues raised by it This book has been cited as being authoritative in the courts of numerous countries The seventh edition is supported by a companion website which includes over 50 short podcast lectures by the author discussing and clarifying key topics from within the book which cover an entire course a set of brief video documentaries filmed on location which provide context and bring to life selected key topics a brief introductory video presentation from the author introducing the viewer to the subject of Equity and Trusts and to the book in particular

Sealy and Hooley's Commercial Law David Fox, Baris Soyer, Roderick Munday, Andrew Tettenborn, Peter Turner, 2020
Sealy and Hooley's Commercial Law Text Cases and Materials provides students with an extensive and valuable range of extracts from key cases and writings in this most dynamic field of law The authors expert commentary and questions enliven each topic while emphasizing the practical application of the law in its business context Five renowned experts in the field continue the legacy of Richard Hooley and Len Sealy capturing the essence of this fascinating topic at a time of significant legislative regulatory and political change Law's Future(s) David Hayton, 2000-09-15 To mark the 2000 Annual Conference of the Society of Public Teachers of Law the Society has organised a distinguished team of contributors to write a set of reflective and critical essays on the future of law in the United Kingdom considering how it will or should develop over

a wide range of areas The essays are concerned not only with all the main branches of the law but also with socio legal studies legal education and legal practice In most of these areas the essays are written by two contributors so that the dialogue between them adds perception to their forecasts taking account of past experience of developing the law via judicial activism or statutory reform processes and also of the European dimension This reflection upon the possible future milestones of UK law will provide stimulating and illuminating reading for all lawyers whether academics or practitioners Contributors Andrew Ashworth Stephen Bailey Rebecca Bailey Harris Nicholas Bamforth Kit Barker John Birds Anthony Bradney Margaret Brazier Richard Card Elizabeth Cooke Fiona Cownie Keith Ewing Conor Gearty Nicola Glover Desmond Greer Brigid Hadfield Johnathan Harris David Hayton Jo Hunt John Jackson Tim Jewell John Lowry Laura Macgregor Judith Masson David McClean Gillian Morris David Oughton John Parkinson Alan Paterson Colin Reid Sir Richard Scott Jo Shaw Lionel Smith Brenda Sufrin Phil Thomas Joseph Thomson Adam Tomkins Martin Wasik Sally Wheeler Richard Whish Sarah Worthington 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 Multistate and Multinational Estate Planning Jeffrey A. Schoenblum, 2008 Commercial Trusts in European Private Law Michele Graziadei, Ugo Mattei, Lionel Smith, 2005-11-03 In European legal systems a variety of approaches to trust and relationships of trust meet the universal professionalisation of asset management services This book explores that interface in order to seek a better understanding of the legal regulation of the entrustment of wealth Within the methodology of the Common Core of European Private Law the book sets out cases on the establishment and termination of management relationships obligations of loyalty and of professionalism and the choice of law More specialized cases address collective investment collective secured lending pension funds and securitisation Reports on these cases from fifteen jurisdictions of the European Union tackle fundamental problems of trust law and show which legal techniques are deployed to solve them across Europe In addition to a much needed comparative treatment of the subject the book discusses the scholarly setting for the issues and gives guidance on the terminology in the evolving European scene Families and Estates International Academy of Estate and Trust Law. Annual Conference, 2005-01-01 This book focuses upon two themes the definition of family and the impact of the expansion of the concept of family in law and family fights over wills and estates

what recourse family members may have in challenging an estate The first part The challenge of the new family for Law considers the challenge both in the inter vivos and the postmortem contexts in the United States Canada France the United Kingdom Australia and New Zealand A particular focus is upon the dramatic expansion of the definition of family from the traditional nuclear family consisting of a husband wife and their mutual children to a definition that includes unmarried heterosexual and same sex couples living together and in some jurisdictions to new kinds of companionate partnerships that are not based on a sexual relationship In some jurisdictions such developments are simply an expression of sharing responsibility by allocating it in the private domain as opposed to the public potentially through social welfare in others particularly in the United States it is a defence of fundamental institutions and with it a defence of society itself The second part Family fights over wills and estates examines the law in Australia Switzerland France Mexico and the United Kingdom Its comparison of civil and common law approaches shows how the law expresses the same principle objects protection of family and obligations towards key family members but does so from entirely different perspectives and where the common law which enshrined the notion of testamentary freedom is being qualified through the expanding domain of family provision legislation the civil law which is based on codified shares and allocated responsibilities expressed through proportionate entitlements in estates is being qualified through a range of disqualifying and varying mechanisms *Private Foundations:* Law & Practice John Goldsworth, 2011 Private Foundations Law and Practice is unique it is the first book to examine and provide guidance on the characteristics of this innovative personal investment vehicle Superficially private foundations are sometimes referred to as an incorporated trust or as a company without shareholders This book will show that these are dangerous approximations Private foundations derived from the civil law foundation a structure of ancient origin are worthy of a dedicated textbook Whilst founded on a common basic idea private foundations show important variations in each jurisdiction in which they have been introduced by legislation The author has many years experience in designing applying and regulating structures in international investment and lecturing on the law and practice of trusts private foundations and An Anatomy of Tax Havens Paul R. Beckett, 2023-10-24 Tax related topics academically and to commercial clients havens in offshore lands like Switzerland the Cayman Islands and the Bahamas were once considered a rarity the preserve of the super rich Today they are big business available to the masses Their goal To avoid any form of accountability Own nothing Possess everything Be answerable to no one Where are these tax havens What forms can they take What future lies in store for them and why should we care An Anatomy of Tax Havens Europe the Caribbean and the United States of America answers these questions and more in the first comparative study in one volume of European Caribbean and United States tax havens It examines their simple origin to the extreme forms some take today delving into the murky subculture that has deliberately made them impenetrably obscure Uniquely it combines detailed technical expertise regulatory regimes financial crime legal and equitable structuring with an analysis of their impact on domestic and global political economic

environmental and social concerns An Anatomy of Tax Havens is a fascinating informative read for a broad readership from legal accountancy and tax practitioners to compliance regulators law enforcement agencies and students and researchers interested in business studies taxation and crime Ownership, Financial Accountability and the Law Paul Beckett, 2019-05-08 There is something visceral about ownership This is mine you can thave it This is mine you can share it This is ours Try to find it Contemporary literature and investigative journalism are showing that the scale of the problem of tax evasion money laundering organised crime terrorism bribery corruption and gross human rights abuses is vast Ownership specifically the guest to identify beneficial owners has been chosen by national and international regulators as the touchstone the litmus test in the fight back An owner by definition must possess something for which they are financially accountable But what is meant by ownership This book explains why ownership is pivotal to accountability and what ownership means in common law civil law and Shariah law terms It looks in detail at State regional and international transparency strategies and at an equally powerful global private counter initiative to promote beneficial ownership avoidance through the use of so called orphan structures Where there is no owner there is no accountability The distinction between privacy and legitimate confidentiality on the one hand and concealment on the other is explained with reference to commercial and trade law and practice principles of corporate governance and applicable business human rights This book introduces one further counter initiative the phenomenon of transient ownership made possible through the use of cryptocurrency and the blockchain The study concludes with a blueprint for action with recommendations addressed to states international organisations practitioners and other stakeholders Extending the Boudaries of Trust and Similar Ring-Fenced Funds David Hayton, 2002-07-19 Virtually every jurisdiction today is busy developing private international law rules to deal with trusts and similar ring fenced structures With the increasing impact of globalisation business interests throughout the world are intent on maximising the potential of such structures for raising funds lowering risks and cutting costs As a result numerous complex issues involving the traditional categories of settlor beneficiary and fiduciary are being radically transformed Extending the Boundaries of Trusts and Similar Ring Fenced Funds offers valuable analyses by sixteen well known authorities in the field of a broad range of trust related issues The many important insights in this book reveal the workings of such issues as the following the disappearing divergence between common law and civil law jurisdictions in the matter of trusts using the segregated fund concept to manage the risk of insolvency the demise of the amateur trustee in the charitable trust sector why loss to the fund supersedes particular losses of beneficiaries the legal dimensions of hiding ownership by giving property to trustees the intervention of public policy in questions of perpetuity the selective imposition of OECD and FTF transparency initiatives on offshore jurisdictions and policing of trustee behaviour by beneficiaries Lawyers bankers and others dealing with investment and business finance will find much information as well as food for thought in this fascinating book as will those involved in the traditional trust industry whether as trustees or lawyers or fund managers

Most of the essays in this outstanding thematic collection were originally prepared for presentation at a conference held in 2001 at King's College London **Principles of International Insolvency** Philip R. Wood, 2007 This title covers the essentials of international insolvency with a very practical slant providing the reader with a comparative overview of insolvency law and practice in the key jurisdictions of the world The intention is to illustrate how the concepts and analyses raised throughout The Law and Practice of International Finance series may be applied in a real world setting Studies in Property Law, Volume 11 Sue Farran, Russell Hewitson, Adam Ramshaw, 2021-07-29 What are the contemporary challenges faced by property law as we enter the 2nd decade of the 21st century This collection brings together the research and perspectives of an international body of academics and practitioners to consider these challenges and how even familiar topics must develop to meet new demands and developments As with previous books in the Modern Studies in Property Law series this volume adopts a broad approach to topics encompassed by property law in the firm belief that the boundaries that divide are shadowy at best and constantly moving in the endeavour to keep up with what is modern This collection looks at 5 themes Comparative perspectives including a chapter on grazing and cropping rights in Northern Ireland and analysis of the anomalies of the English trust law as seen from a civil law perspective Taking and alienating property including a chapter on bankruptcy and the family home Modern dilemmas including chapters on trusts in virtual currency and on smart homes Old chestnuts new challenges including analysis of the mortgage law reform in Scotland and a chapter on the ouster principle in common law jurisdictions and Wills death and other morbid topics with chapters on English succession law and the role of knowledge and approval in retrospective assessments of capacity Unfortunately the COVID 19 pandemic prevented the 13th biennial conference being held in 2020 as planned but despite this the authors and co editors persevered to produce this interesting and diverse collection Elgar Encyclopedia of Comparative Law, Second Edition J. M. Smits, 2012-01-01 Acclaim for the first edition This is a very important and immense book The Elgar Encyclopedia of Comparative Law is a treasure trove of honed knowledge of the laws of many countries It is a reference book for dipping into time and time again It is worth every penny and there is not another as comprehensive in its coverage as Elgar's I highly recommend the Elgar Encyclopedia of Comparative Law to all English chambers This is a very important book that should be sitting in every university law school library Sally Ramage The Criminal Lawyer Containing newly updated versions of existing entries and adding several important new entries this second edition of the Elgar Encyclopedia of Comparative Law takes stock of present day comparative law scholarship Written by leading authorities in their respective fields the contributions in this accessible book cover and combine not only questions regarding the methodology of comparative law but also specific areas of law such as administrative law and criminal law and specific topics such as accident compensation and consideration In addition the Encyclopedia contains reports on a selected set of countries legal systems and as a whole presents an overview of the current state of affairs Providing its readers with a unique point of reference as well as stimulus for further research

this volume is an indispensable tool for anyone interested in comparative law especially academics students and practitioners Moffat's Trusts Law Jonathan Garton, Rebecca Probert, Gerry Bean, 2020-05-14 Always the serious student's choice for a Trusts Law textbook the new seventh edition of Moffat's Trusts Law once again provides a clear examination of the rules of Trusts retaining its hallmark combination of a contextualised approach and a commercial focus The impact of statutory developments and a wealth of new cases including the Supreme Court and Privy Council decisions in Patel v Mirza 2016 UKSC 42 PJS v News Group Newspapers Ltd 2016 UKSC Burnden Holdings v Fielding 2018 UKSC 14 and Federal Republic of Brazil v Durant 2015 UKPC 35 are explored A streamlining of the chapters on charitable Trusts better to align the book with the typical Trusts Law course helps students understand the new directions being taken in the areas of Trust Law and equitable remedies Commercial Law M. A. Clarke, R. J. A. Hooley, R. J. C. Munday, L. S. Sealy, P. G. Turner, A. M. Tettenborn, 2017 Commercial Law Text Cases and Materials provides students with an extensive and valuable range of extracts from key cases and writings in this most dynamic field of law The authors expert commentary and questions enliven each topic while emphasizing the practical application of the law in its business context Len Sealy and Richard Hooley have been joined by four renowned experts in the field for the preparation of this edition. The authors have captured the essence of this fascinating topic at a time of significant legislative regulatory and political change Marsh's California Corporation Law Harold Marsh, R. Roy Finkle, Larry W. Sonsini, 1999-12-01 This authoritative research tool covers all aspects of California corporate law and practice providing clear reliable guidance to the laws legislative history and major case law holdings as well as the authors well known expertise and advice on approaching and understanding key corporate transactions. There is no better source on how to handle all key corporate transactions from corporate formation and governance to takeovers and bankruptcies Completely current there is full coverage and insightful expert analysis of all the critical new issues affecting California corporate law practice including What are the various business entities available in California What are the methods and issues involved in forming those entities What are the particular benefits of and restrictions on using a Limited Liability Company in California What are the issues involved in financing a California corporation What are the fiduciary duties imposed upon directors officers and controlling shareholders of California corporations How do you provide notice and hold meetings of directors and shareholders of California corporations What are the restrictions imposed upon officers and directors in the operation of California corporations Under what circumstances can a California corporation pay a dividend or make a distribution of property to its shareholders What are the issues involved in acquiring California corporations whether by merger purchase of stock or purchase of assets How and under what circumstances can a California corporation be dissolved What are the issues and requirements faced by a foreign corporation conducting business in California

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