

MODERN INTERNATIONAL DEVELOPMENTS IN TRUST LAW

Editor
DAVID HAYTON



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Modern International Developments In Trust Law

Jonathan Harris



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 Hague Trusts Convention Jonathan Harris, 2002-05-04 Trusts cross borders When they do real 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 Hague 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

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 jurisprudence

Trusts Law Graham Moffat, Gerard M. D. Bean, Rebecca Probert, 2009-09-03 This classic textbook brings a modern perspective to the study of the law of equity Its hallmark contextualized approach and commercial focus will help students understand the subject and the authors commentary on the factors informing trusts law allows students to confidently grapple with complex ideas Multistate and Multinational Estate Planning Jeffrey A. Schoenblum, 2008 *Equity and Trusts* Alastair Hudson, 2016-07-15 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 The author's enthusiasm and expertise shine through helping to bring to life an area of the law which students often find challenging This Ninth Edition has been extensively re-written but remains the same book in spirit as it has always been It contains an analysis of the important decisions of the Supreme Court in *FHR European Ventures v Cedar Capital Jones v Kernott* and *Williams v Central Bank of Nigeria* and the important decisions in *Charity Commission v Framjee Rawstron v Freud Patel v Mirza* *Federal Republic of Brazil v Durant* *Hodkin Novoship v Mihaylyuk* *National Crime Agency v Robb* *St Andrews Cheam Lawn Tennis Club* the after effects of the Lehman Brothers collapse and analysis of many other new cases besides *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 ninth edition is supported by the author's website at www.alastairhudson.com with brand new resources including short podcasts discussing and clarifying key topics from within the book which cover an entire course complete lecture recordings made specifically to accompany this book New video documentaries bringing to life selected key topics A host of other online materials and study guides new for 2016 Review of a previous edition One of the book's great strengths is its clear exposition of some very difficult areas of the law moving seamlessly from points that puzzle students to points that puzzle practitioners Other strengths are the breadth of its approach the fact that it is extremely up to date the freshness and vividness of its approach and its willingness to place equity in a wider context The student will enjoy a clear lively and

challenging account of the subject matter The practitioner will find the book well worth consulting for its clear exposition of the basic principles and of their application in difficult areas New Law Journal

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

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 related topics academically and to commercial clients

An Anatomy of Tax Havens Paul R. Beckett, 2023-10-24 Tax 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't have 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 quest 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

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

Modern 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 **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 *Marsh's California Corporation Law, 5th Edition* Marsh, Finkle, Bishop,

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

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

Asia-Pacific Trusts Law, Volume 1 Ying Khai

Liew,Matthew Harding,2021-08-26 At a time when Asia represents the fastest growing economic region there is no better moment to consider what trusts law can contribute to societal stability and economic prosperity This book does this by offering the first work that systematically explores trusts law across the region Many Asian Pacific jurisdictions have integrated and developed trusts law in their legal systems either through colonial heritage or statutory activism But the diversity of legal traditions and local contexts has resulted in trusts laws having a significantly varied impact across the region In the modern globalised world there is growing need to adopt an outward looking approach in dealing with matters of common interest This book answers this need by bringing together leading legal scholars and practitioners in the region to explore the theory and practice of trusts law contextualised to specific jurisdictions in the Asia Pacific Exploring 17 jurisdictions in Asia it bring both an academic and practitioner perspective to trusts law in the region

The Economic Structure of Trusts M. W. Lau,2011-01-13

Providing an economic account of why trusts exist and how trust law should be shaped this book explains the economic benefits of trusts as an extension of the law of property arguing against accounts of trusts law grounded in the law of personal obligations The theoretical model is then used to criticise recent developments in

the law **Moffat's Trusts Law** Jonathan Garton, Rebecca Probert, Gerry Bean, 2020-05-14 Combines authoritative commentary and unique contextual analysis to explain the general principles of trusts and their practical operation

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