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An Introduction to Equity and Trusts

1.01 The term “equity” is, in a general sense, associated with notions of fairness, morality and justice. It is an ethical jurisdiction, originally of canon law descent.¹ On a more legalistic level, however, “equity” is the branch of law that was administered in the Court of Chancery prior to the Judicature Acts 1873 and 1875.² This was a jurisdiction evolved to achieve justice and to overcome the rigours and deficiencies of the common law.³

As Lord Cowper LC rather grandly explained in *Lord Dudley v Lady Dudley*:

“Now equity is no part of the law, but a moral virtue, which qualifies, moderates, and reforms the rigour, hardness, and edge of the law, and is a universal truth; it does also assist the law where it is defective and weak . . . and defends the law from crafty evasions, delusions, and new subtleties intended as contrived to evade and delude the common law, whereby such as have undoubted right are made remediless; and this is the office of equity, to support and protect the common law from shifts and crafty contrivances against the justice of law. Equity therefore does not destroy the law, nor create it, but assists it”.⁴

Although an ethos of conscience pervades this aspect of the law, equity never bestowed a totally unfettered jurisdiction on the Court of Chancery to do what was fair in the settlement of a dispute.⁵ Embodying aspects of ecclesiastical law and Roman law, equity developed and gradually emerged as a distinct body of law. In time, the system became as hidebound by rules and principles as its common law counterpart.⁶

¹ See generally, H. Coing, “English Equity and the *Denunciatio Evangelica* of the ‘Canon Law’” (1955) 73 L.Q.R. 223.

² Equity was, as Lord Neuberger MR noted in his Keating lecture (delivered at Lincoln’s Inn on 19 May 2010) entitled “Equity, ADR, Arbitration and the Law: Different Dimensions of Justice”, para.30, “the common law’s twin administered by the Court of Chancery, its jurisdiction arising from the prerogative of grace”. This is available at <http://webarchive.nationalarchives.gov.uk/201311202154599/http://judiciary.gov.uk/media/speeches/2010/speech-lord-neuberger-19052010> [Accessed 14 April 2017].

³ As Lord Neuberger MR observed in his lecture “Equity, ADR, Arbitration and the Law: Different Dimensions of Justice”, 19 May 2010, para.31, “Equity arose as a second doorway to justice as a consequence of defects, weaknesses and limits in the common law”. It was fashioned so that “the justice system could properly ensure that substantive justice could be done” (para.30).

⁴ (1705) Prec. Ch. 241 at 244.

⁵ Sir George Jessel MR explained in *Re National Funds Assurance Co* (1878) 10 Ch. D. 118 at 128 that, “This court is not, as I have often said, a Court of Conscience, but a Court of Law”.

⁶ Lord Neuberger MR admitted in his lecture “Equity, ADR, Arbitration and the Law: Different Dimensions of Justice”, 19 May 2010,

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enforce the terms of an ERISA Plan while the Plan files suit in federal court seeking an injunction against the state court action New case law and discussion on preemption of FEHBA subrogation and reimbursement claims have been added to Chapter 10 in the wake of new decisions regarding same **The Law Times** ,1933-07 *Equity and Trusts* Michael Haley,Angela Sydenham,2007 An introduction to equity Descriptions and classifications of trusts The three certainties Constitution of trusts Formalities Secret trusts The statutory avoidance of trusts Protective trusts Resulting trusts Constructive trusts Non charitable purpose trusts Charitable trusts The Cy Pres doctrine Appointment retirement and removal of trustees Trustees duties Powers of maintenance advancement and the appointment of agents Variation of trusts Breach of trust Examination checklist Sample questions and model answers *Equity and Trusts* Miriam Dowling,Karl Dowling,2012-09-17 This book is a revision tool for students summarising the essential components of the law of Equity and Trusts It is a user friendly accurate and concise work that will be an invaluable study aid It has chapters on all the main examinable topics and an analysis of the important cases in each area Designed with the busy student in mind the Nutshell is perfect for exam preparation with brief clear explanations of key exam topics throughout The first edition has been redesigned and updated to include a number of significant decisions that have been recently delivered as well as legislative developments such as the enactment of the Land and Conveyancing Law Reform Act 2009 and the Charities Act 2009 Author Miriam Dowling BA Hons works for Pearts Solicitors Dublin Valuepack:Trusts and Equity/Law Express Richard Edwards,Nigel Stockwell,John Duddington,2007-09-05 Trusts and Equity 8 E Trusts and Equity is a trusted clear and engaging explanation of the main principles of this area of law This book demystifies this complex subject without oversimplifying by means of clear explanations and a focus on contemporary applications of the trust Law Express Equity Trusts 1st edition 1 E Law Express Equity and Trusts is designed to help you to relate all the reading and study throughout your course specifically to exam and assignment situations Understand quickly what is required organise your revision and learn the key points with ease to get the grades you need Equity in a Nutshell ... Second Edition Marston GARSIA,1933

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.

Valuepack: Essentials of Equity and Trusts Law/Law Express John Duddington, 2007-11-01. **Essentials of Equity and Trusts Law** 1st ed. This new textbook on equity and trusts law has been designed to cover all the main topics on undergraduate courses comprehensively but concisely. It offers a clear and accurate explanation of the law presented in a systematic and logical order for learning and revision. The book is exceptionally accessible to students new to the subject. **Law Express Equity and Trusts** 1st ed. **Law Express Equity and Trusts** is designed to help you to relate all the reading and study throughout your course specifically to exam and assignment situations. Understand quickly what is required, organise your revision and learn the key points with ease to get the grades you need. Tested with examiners and students.

Principles of Australian Equity and Trusts Peter Radan, Cameron Stewart, 2022. **Unlocking Equity and Trusts** Mohamed Ramjohn, Judith Bray, 2024-07-29. Now in its 8th edition, **Unlocking Equity and Trusts** will help you grasp the main concepts of this core subject with ease. Containing accessible explanations in a clear and logical structure, the following features provide an excellent foundation for learning and revising: Clear learning outcomes at the beginning of each chapter set out the skills and knowledge you will need to get to grips with the subject; Key Facts summaries throughout each chapter allow you to progressively build and consolidate your understanding; End of chapter summaries provide a useful check list for each topic; Cases and judgments are highlighted to help you find them and add them to your notes quickly; Frequent activities and self-test questions and sample essay questions are included so you can put your knowledge into practice and prepare you for assessment. A brand new critiquing the law feature is designed to foster essential critical thinking skills. The 8th edition has been fully updated throughout to reflect recent developments and changes in the law, including significant updates to the chapters on Proprietary Estoppel and Trusts of the Family Home. **Unlocking Equity and Trusts** is essential reading for all students studying Equity and Trusts for the first time.

Equity and Trusts Margaret Halliwell, 2000. **Equity and Trusts** Gino Evan Dal Pont, 2018-11-06. The seventh edition of **Equity and Trusts Commentary and Materials** builds on the strengths of the previous editions and maintains its focus on prefacing case and statutory extracts by statements of principle to guide the student and following extracts by comments and questions that both test the readers' understanding and develop aspects of extracted material. Every effort has been made to make the work as accessible to the student as possible in the main by ensuring that most extracts are not unduly lengthy while at the same time focusing chiefly via questions and commentary on the learning outcomes essential to the study of equity and trusts. This new edition includes extracts from important judgments delivered since late 2014.

including *Thorne v Kennedy* on undue influence *Wilaci Pty Ltd v Torchlight Fund No 1 LP* in receivership on penalties and *Jones v Matrix Partners Pty Ltd* on the insolvency of trustees Other significant decisions including *Crown Melbourne Ltd v Cosmopolitan Hotel Vic Pty Ltd* on estoppel *Paciocco v Australia and New Zealand Banking Group Ltd* and *Cavendish Square Holdings BV v Makdessi* on penalties are the subject of briefer extracts and commentary in the notes This new edition to this end retains its progressive focus and challenges readers to evaluate Australian law in its modern context The casebook works as an ideal companion to the seventh edition of *Equity and Trusts in Australia* which adopts the same chapter order and structure Being written by the same author the text and casebook present a consistent style and approach making them ideal for teaching on equity courses trusts courses or combined equity and trusts courses *Equity & Trusts Law Directions* Gary Watt,2025 *Equity in a Nutshell ... Third Edition* Marston GARSIA,1941 *Equity and Trusts* John Duddington,2009

The Principles of Equity & Trusts Graham Virgo,2023 The Principles of Equity and Trusts offers a refreshing student focused approach to a dynamic area of law In the fifth edition of his best selling textbook Professor Graham Virgo brings his expertise as a teacher to deliver an engaging contextual account of the essential principles of trusts and their equitable remedies Virgo states the law in plain terms before building on an area of debate and encouraging students to fully engage with the inherent issues within the subject Concise and authoritative analysis enables students to grasp the principles of trusts develop the confidence to engage fully with the subject area and excel in their studies Virgo approaches the topics with unparalleled clarity and provides the academic rigour for which this text has come to be relied upon Combining expert knowledge and comprehensive coverage this is the ideal companion to a course in trusts Digital formats and resourcesThe fifth edition is available for students and institutions to purchase in a variety of formats and is supported by online resources The e book offers a mobile experience and convenient access along with self assessment activities multi media content including author videos web links to key cases functionality tools navigation features and links that offer extra learning support <http://www.oxfordtextbooks.co.uk/ebooks> The online resources includes self test and scenario questions with feedback videos from the author and web links to key cases *Equity and Trusts* Mohamed Ramjohn,2006 Presenting practical answers to fifty typical exam questions this new edition helps students to penetrate and understand the complexities of equity and trusts Traditionally a difficult subject for those approaching it for the first time special care has been taken to present the subject as a whole in a structured way with basic matters examined first before moving on to more difficult concepts Incorporating new questions and answers this new edition has been fully updated to include recent case law e g *Choithram v Pagarani* 2001 *Pennington v Waine* 2002 *Twinsectra v Yardley* 2002 *Duggan v Governor of Full Sutton Prison* 2004 discussion of the Charities Bill 2004 the implications of the Trustee Act 2000 Clarifying the mysteries surrounding the study of equity and trusts this book contains essential advice and examples which illustrate how to successfully answer examination questions on the subject *Cases and Materials on Equity and Trusts* ,2018 An authoritative and

comprehensive text on the area of Equity and Trusts offering scholarly commentary on the relevant principles and carefully selected extracts from leading judgments and legislation *Equity in a Nutshell* J. Brian Morcom, 1956 *Equity and Trusts* Karl Dowling, 2007-01-01 Thomson Round Hall's Nutshell Equity and Trusts is a clear and concise examination of this often demanding area of law Written in an accurate concise and user friendly manner it is an excellent tool for students It provides the reader with a comprehensive outline of the main principles and case law of equity and trusts Contents Introduction and maxims of equity and trusts Definition and classification of trusts Constitution of trusts Resulting trusts Constructive trusts Secret trusts Non charitable purpose trusts Charitable trusts Void and voidable trusts Rectification Rescission Specific performance Equitable estoppel Tracing Injunctions The administration of trusts Karl Dowling is a practising barrister

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