

Understanding Equity & Trusts

Sixth Edition

Alastair Hudson



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Sixth edition published 2017

by Routledge

2 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN

and by Routledge

711 Third Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

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First edition published by Cavendish Publishing in 2001

Fifth edition published by Routledge in 2015

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Library of Congress Cataloging-in-Publication Data

Names: Hudson, Alastair, author.

Title: Understanding equity & trusts / Alastair Hudson.

Other titles: Understanding equity and trusts

Description: Sixth edition. | Abingdon, Oxon [UK] ; New York, NY : Routledge, 2017. | Includes bibliographical references and index.

Identifiers: LCCN 2016010429 | ISBN 9781138122666 (hbk) |

ISBN 9781138122673 (pbk) | ISBN 9781315649627 (e-book)

Subjects: LCSH: Equity—Great Britain. | Trusts and trustees—Great Britain.

Classification: LCC KD674 .H833 2017 | DDC 346.42/004—dc23

LC record available at <http://lccn.loc.gov/2016010429>

ISBN: 978-1-138-12266-6 (hbk)

ISBN: 978-1-138-12267-3 (pbk)

ISBN: 978-1-315-64962-7 (ebk)

Typeset in Times New Roman

by Apex Covantage, LLC

Preface

This book offers a succinct analysis of the whole of a trusts law or equity course, whether for students or for those who want a concise explanation of the underpinnings of equitable doctrine and the practical use of trusts. While it cannot cover in detail all of the material contained in my full textbook *Equity and Trusts* (9th edition, 2017), which takes over 1,000 pages, this book nevertheless analyses the key components of any examination dealing with trusts law for the student who needs an introduction to their course, or a map through the thicket in the middle of that course, or help in that tense period revising for examinations. Podcasts, containing brief lectures, recorded specially for my equity textbook readers, are available via the publisher's companion website. Other materials, including full lectures from recent years, together with videocasts explaining some of the trickier areas, are also available on www.alastairhudson.com.

This book has been written so as to provide you with enough material to get through examinations successfully, while remaining both readable and concise. Free of the need to discuss every crevice of the case law, this book will give you an overview of the relevant law and focus on the most significant ideas without getting bogged down in unnecessary detail. What this book cannot do is replace the need to read the cases and study a full textbook, but it can shine a light on what might otherwise be in darkness. If you need help with trusts law, then this is the book for you. The main principles in the leading cases are set out and explained here, together with illustrations from other useful cases and some of the more interesting issues that flow from those cases. There are also many practical examples to illustrate how those principles operate. For the general reader, this book also presents a clear argument as to the importance and nature of equity, which makes this complex subject more accessible.

Equity and trusts is a fascinating subject. The idea of equity can be traced back to Aristotle's *Ethics* as a means of achieving a fair result on the facts of a given case even if the common law or statute would appear to require something else. This approach is still observable in the law on constructive trusts, equitable estoppel and injunctions even today. The largest participants in most investment markets – such as pensions funds and unit trusts – operate on the basis of trusts law, as do the principles governing the operation of many wills. So, trusts law

is a very important part of our life, from commercial activities right through to ordinary people's private affairs. The principles are a rich stew of strict rules and flexible doctrines that are gloriously malleable in practice. This is also an area of law that cultivates a large number of legal skills, particularly those concerned with organising matters so as to achieve the client's goals, like no other field. This subject also enables us to ask some searching questions about the way in which the legal system interacts with the needs and rights of the individual, and whether or not the idea of a 'conscience' is a feasible organising concept for an entire field of law like equity.

Equity and trusts is potentially one of the most interesting parts of your law degree. My task is to convince you of that. I defy you to read this book without encountering some parallel with your own life, or without being provoked by the problems it considers. Even if I only cause you to leap to your feet and hurl this book across the room with an oath, I will consider myself successful.

I would like to dedicate this book to the memory of Jeffrey Price, the man who started my learning in the law of trusts and who became a close friend in later life. I owe him a great debt of thanks for the time he took to help me (and everyone else) when I was an undergraduate. It was sitting in his office one dark November afternoon, as his colleagues swarmed in and out of the room in a cloud of badinage and bonhomie, that I first realised my vocation was to be an academic. (Something for which I may never forgive him.) It was from him that I learned the craft of explaining complex legal concepts to students, the importance of clarity, and the possibilities of infectious enthusiasm. It is no exaggeration to say that this book is the product of his kindness, his energy and his spirit. He is much missed.

I would also like to thank Dr Helena Howe for her unflagging friendship and support during the time it took to write this book. I would not like to thank the driver of the refrigerated truck that knocked me over while I was walking along the pavement thinking about the ideas that make up this book. That unexpected diversion into criminal law and tort law was most unwelcome. There was a moment when my excellent publisher, Fiona Briden, might have been looking for another author for this book. My thanks go to her for her patience while I recuperated and for the sunflowers. My apologies go to her for the extra work that has created.

We get knocked down but we get up again. As Samuel Beckett put it: 'somehow on'.

*Alastair Hudson
Haywards Heath
February 2016*

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