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Equity and Trusts

SCOTT ATKINS

2ND EDITION

ROUTLEDGE



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SCOTT ATKINS

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PREFACE TO THE SECOND EDITION

After the publication of the first edition of the book, I was fairly confident in my view that I need never write another book again: the law of trusts is reasonably stable and not subject to too much change, there would be little demand for another book and there would be only so many copies that I would need to give away as gifts!

I was wrong on all accounts, not least that I've never quite had the audacity to give copies away as gifts. The first edition had positive sales results and the law has not stood still since 2012. This edition, then, seeks to reflect those key decisions, most notably those of the Supreme Court in *FHR European Ventures LLP v Cedar Capital Partners LLC* on tracing bribes; the co-joined appeals in *Futter v The Commissioners for H M Revenue & Customs*; *Pitt v The Commissioners for H M Revenue & Customs* on equitable mistake and the so-called 'rule' in *Re Hastings-Bass*; the notion of Lord Browne-Wilkinson's development of equitable compensation and restoration in *Target Holdings v Redfern* was revisited in *AIB Group (UK) plc v Mark Redler & Co Solicitors*; and the concept of rectification was considered in *Marley v Rawlings*, with a perhaps surprising result!

The Court of Appeal has been no less busy. Its key decisions have encompassed *Graham-York v York* on the notion of 'fairness' when valuing a trust of the family home; *Santander UK plc v RA Legal Solicitors* on the question of a trustee's defence under section 61 of the Trustee Act 1925; and the nature of the type of representation needed to establish a claim in proprietary estoppel was discussed in *Southwell v Blackburn*.

High Court decisions have included *V v T*, which considered the principle of open justice in variation of trusts cases; *Brudenell-Bruce v Moore* on a trustee being able to charge for their time and trouble; *Vallee v Birchwood* on the principle of *donatio mortis causa*; a decision on secret trusts in *Re Freud*; and even a case on *cy-près* in *Phillips v RSPCA*.

In addition, the Charity Commission has issued revised guidance on the concept of public benefit, which is considered in Chapter 15.

Routledge have made good progress with incorporating this text into a new series, called 'Spotlights'. There are other volumes in the series and one aim is that, in so far as possible, all the texts share the same learning features. As with the first edition, it was not my intention simply to restate (some of) the law of trusts. Not every decision ever taken in a court is mentioned. The diagrams, charts, boxes and examples remain with the aim of trying to get the law across in a more contemporary, user-friendly format. New to this edition are summaries of key academic debates in the various topic areas; you will find these in the 'Analysing the Law' boxes. They are designed to tell you what some of the most controversial areas are so that you can, if you wish, go on and investigate them yourself. Similarly, if time is precious, they aim to give you just a snapshot of academic thinking. I hope you find them useful.

As in the first edition, I owe thanks and love to my wife, Julie, and son, Harry, who have both continued to be supportive whilst I find time to write the text. I am also in the debt of the anonymous reviewers who have provided helpful comments on the text as I revised it. I have endeavoured to take on board as many of their comments as possible. Finally, I owe tremendous thanks to Fiona Briden, the commissioning editor at Routledge and Emily Wells, my editor, for their conscientious work and having the patience to deal with me!

I was wrong. Equity and trusts does not stand still and the need for a new edition became apparent. Rewriting it helped remind me that I continue to find equity and trusts a fascinating – and possibly underrated – area of the law. The law is as I understand it at 15 July 2015 and, despite all of the assistance offered by others, any errors within the text continue to be mine alone.

SCOTT ATKINS
DERBY, 15 JULY 2015.

GUIDE TO THE SPOTLIGHTS SERIES

The Routledge Spotlights series is an exciting new textbook series that has been carefully developed to help give you a head start in your assessments. We've listened to lecturers and examiners to identify what it takes to succeed as a law student and we've used that to develop a brand new series of textbooks that combines detailed coverage of the law together with carefully selected features designed to help you translate that knowledge into assessment success.

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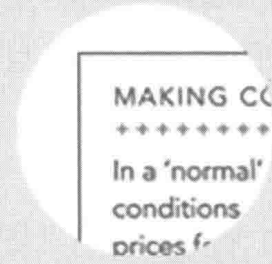
Natural law
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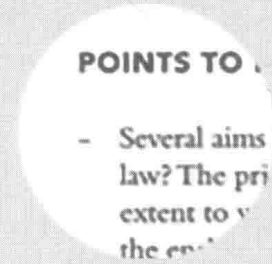
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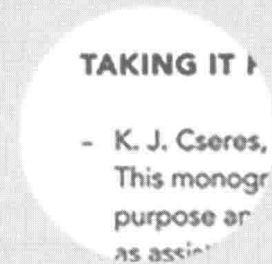
will help you impress examiners, showing you how a topic fits into the bigger picture, not just of the wider subject but also across the legal curriculum.

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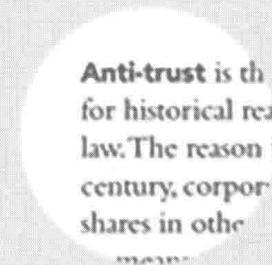
bring together all of the principles and themes for the chapter, helping to reinforce your learning.

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Reading widely impresses examiners! **Taking it Further** provides annotated lists of journal articles, book chapters and useful websites for further reading which have been carefully selected to help you to demonstrate an enhanced understanding of the topic.

**LEGAL VOCABULARY**

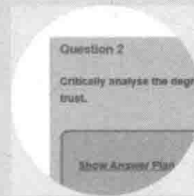
Studying law brings with it the need to master the **Legal Vocabulary** unique to that subject. New terms are highlighted in bold and defined in an end-of-chapter glossary.



GUIDE TO THE WEBSITE

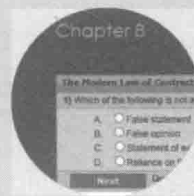
LEGAL EXERCISES

to test knowledge and promote critical thinking, including exam/coursework questions and thinking points for further study and reflection.



MULTIPLE CHOICE QUESTIONS

for self-testing, helping you to diagnose where you might feel less confident about your knowledge so you can direct your revision time in the right direction.



GLOSSARY FLASHCARDS

will help you to revise and remember key concepts and the legal principles they illustrate.



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