

UNDERHILL  
and  
HAYTON  
LAW OF TRUSTS  
AND TRUSTEES

DAVID HAYTON  
PAUL MATTHEWS  
CHARLES MITCHELL

Eighteenth Edition



LexisNexis

# Underhill and Hayton

Law Relating to Trusts and Trustees

Eighteenth Edition

General Editor

**David Hayton**

LLB, LLD (Newcastle), MA, LLD (Cantab)

*Justice of the Caribbean Court of Justice, Bencher of Lincoln's Inn and  
Fellow of King's College, London*

with

**Paul Matthews**

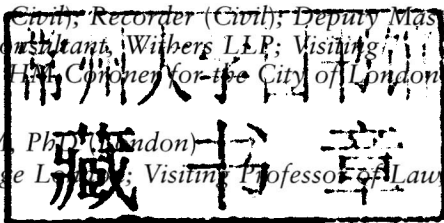
BCL, LLD

*Solicitor-Advocate (Higher Courts: Civil); Recorder (Civil); Deputy Master,  
High Court, Chancery Division; Consultant, Withers LLP; Visiting  
Professor, King's College, London; Hon. Coroner for the City of London*

**Charles Mitchell**

MA (Oxon), Dip Law (City), LL.M. (Ph.D. London)

*Professor of Law, University College London; Visiting Professor of Law,  
University of Oxford*



LexisNexis®

## Members of the LexisNexis Group worldwide

United Kingdom	LexisNexis, a Division of Reed Elsevier (UK) Ltd, Halsbury House, 35 Chancery Lane, London, WC2A 1EL, and London House, 20–22 East London Street, Edinburgh EH7 4BQ
Australia	LexisNexis Butterworths, Chatswood, New South Wales
Austria	LexisNexis Verlag ARD Orac GmbH & Co KG, Vienna
Benelux	LexisNexis Benelux, Amsterdam
Canada	LexisNexis Canada, Markham, Ontario
China	LexisNexis China, Beijing and Shanghai
France	LexisNexis SA, Paris
Germany	LexisNexis Deutschland GmbH, Munster
Hong Kong	LexisNexis Hong Kong, Hong Kong
India	LexisNexis India, New Delhi
Italy	Giuffrè Editore, Milan
Japan	LexisNexis Japan, Tokyo
Malaysia	Malayan Law Journal Sdn Bhd, Kuala Lumpur
New Zealand	LexisNexis NZ Ltd, Wellington
Poland	Wydawnictwo Prawnicze LexisNexis Sp, Warsaw
Singapore	LexisNexis Singapore, Singapore
South Africa	LexisNexis Butterworths, Durban
USA	LexisNexis, Dayton, Ohio

First published in 1878

© Reed Elsevier (UK) Ltd 2010

Published by LexisNexis

All rights reserved. No part of this publication may be reproduced in any material form (including photocopying or storing it in any medium by electronic means and whether or not transiently or incidentally to some other use of this publication) without the written permission of the copyright owner except in accordance with the provisions of the Copyright, Designs and Patents Act 1988 or under the terms of a licence issued by the Copyright Licensing Agency Ltd, Saffron House, 6–10 Kirby Street, London EC1N 8TS. Applications for the copyright owner's written permission to reproduce any part of this publication should be addressed to the publisher.

Warning: The doing of an unauthorised act in relation to a copyright work may result in both a civil claim for damages and criminal prosecution.

Crown copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland. Parliamentary copyright material is reproduced with the permission of the Controller of Her Majesty's Stationery Office on behalf of Parliament. Any European material in this work which has been reproduced from EUR-lex, the official European Union legislation website, is European Union copyright.

A CIP Catalogue record for this book is available from the British Library.

ISBN 9781405745222

Typeset by Letterpart Ltd, Reigate, Surrey

Printed in the UK by CPI William Clowes Beccles NR34 7TL

Visit LexisNexis at [www.lexisnexis.co.uk](http://www.lexisnexis.co.uk)

ISBN 978-1-4057-4522-2



9 781405 745222

## Law Relating to Trusts and Trustees

## Publishing History

First edition (1878) – Arthur Underhill

Second edition (1884) – Arthur Underhill

Third edition (1889) – Arthur Underhill

Fourth edition (1894) – Arthur Underhill

Fifth edition (1901) – Arthur Underhill

Sixth edition (1904) – Arthur Underhill

Seventh edition (1912) – Arthur Underhill

Eighth edition (1926) – Arthur Underhill

Ninth edition (1939) – Sir Arthur Underhill and Edward Bagshaw

Tenth edition (1950) – C Montgomery White QC and MM Wells

Eleventh edition (1959) – C Montgomery White QC and MM Wells

Twelfth edition (1970) – RT Oerton

Thirteenth edition (1979) – DJ Hayton

Fourteenth edition (1987) – DJ Hayton

Fifteenth edition (1995) – DJ Hayton

Sixteenth edition (2003) – DJ Hayton

Seventeenth edition (2006) – DJ Hayton, PB Matthews and CCJ Mitchell

Eighteenth edition (2010) – DJ Hayton, PB Matthews and CCJ Mitchell

# Preface

Four years have elapsed since the 17th edition but case law developments and new legislation have made a new edition necessary. Under my general editorship Paul Matthews has been responsible for the hefty Division Four ('The Administration of a Trust'), while Charles Mitchell has been responsible for Division Three ('Trusts Imposed by Law') and Division Five ('The Consequence of a Breach of Trust'). I have been responsible for the other three Divisions.

Following Sir Arthur Underhill's template, the principles of private (as opposed to public or charitable) trust law are extracted and formulated along the lines of Articles of a Code. This is a demanding salutary exercise in itself in the endeavour to clarify the law. It also has the practical function of enabling the busy practitioner to see at a glance the principles governing a particular aspect of trust law. To resolve a pressing query, the practitioner can then turn to the appropriate sub-heading in the subsequent commentary. This, in its detailed analysis of relevant cases and any legislation, illustrates and explains the application of the appropriate principle, commencing with the core of settled law before looking at the penumbra of uncertainty in the light of the theoretical underpinnings of trust law.

This approach, revealing the structural operation of the principles, helps to provide a good overall picture of trust law and to indicate where parts of the picture may, perhaps, be developed at the extremities and where some of the inner parts may even be touched up. After all, as Sir George Jessel MR pointed out in *Re Hallett's Estate* (1880) 13 Ch D 696 at 710 when commenting upon the rules of Courts of Equity, 'It is perfectly well-known that they have been established from time to time – altered, improved and refined from time to time.'

Indeed, as the renowned legal historian and sometime Equity barrister, Professor Maitland, stated (in *Selected Essays*, 1936, p 129), 'If we were asked what is the greatest and most distinctive achievement performed by Englishmen in the field of jurisprudence, I cannot think that we should have any better answer to give them than this, namely the development from century to century of the trust idea.'

There is no ultimate truth as to the English trust concept as it responds to the needs of private clients and the commercial community. It is impossible to define precisely and conclusively what is a trust. One can only provide a description that sets out those characteristics for the time being that distinguish the English trust concept from other English concepts and, indeed, from foreign trust concepts, whether narrower or broader than the English trust



## Preface

concept. It is possible that English judges could in an appropriate case refine or enlarge some of the characteristics of the English trust. After all, they need to take account of changing practical realities and the characteristics of some offshore trusts that have to be recognised in England as a matter of private international law even if substantial English aspects have at some stage been grafted on to such trusts pursuant to a power in that behalf.

In this edition there has been some significant re-writing of parts of Articles so as to take account of over a hundred cases in England and other significant trust jurisdictions (eg in Australia, Cayman Islands, Jersey and Guernsey), the Perpetuities and Accumulations Act 2009 and s 199 of the Equality Act 2010 (due to abolish the presumption of advancement) and many recently published articles and books.

In Divisions 1 and 2 the treatment of protectors and of sham trusts has been further developed, the topic of equitable proprietary estoppel interests has been substantially re-written, as has the Article dealing with rectifying or setting aside a settlement for mistake, while the impact of the Perpetuities and Accumulations Act 2009 has been explained. Articles 21–26 inclusive have been omitted as dealing with obsolete executory marriage settlements.

In Division 3 the chapter on resulting trusts reviews s 199 of the Equality Act 2010 that will abolish the presumption of advancement and so afford more scope for the creation of resulting trusts, while the material in the chapter on constructive trusts has been re-organised so that the chapter now contains six, rather than four, Articles. In particular the impact of *Stack v Dowden* [2007] UKHL 17 is considered and there is more extensive discussion than in the last edition of personal and proprietary liability as a constructive trustee and of the rule in *Pallant v Morgan* and of gain-based remedies for breach of confidence.

In Division 4 there are two new Articles, Art 65 on the power of a beneficiary to disclaim a benefit under a trust, and Art 68 on the power of a beneficiary to bring a derivative action on behalf of the trust as considered by the Supreme Court in *Roberts v Gill* [2010] UKSC 22. In the light of recent cases there is more discussion of the Proceeds of Crime Act 2002, ss 14 and 15 of the Trusts of Land and Appointment of Trustees Act 1996, s 27 of the Trustee Act 1925, confidentiality and letters of wishes and the *Hastings-Bass* principle that some offshore jurisdictions have surprisingly extended beyond distributive discretions in favour of beneficiaries to managerial or administrative discretions involving third parties.

Division 5 tracks new developments in the law of tracing and the law governing dishonest assistance in a breach of trust and contains new discussion of remedies for knowing receipt.

In Division 6 there has been expansion of the treatment of resulting and constructive trusts in the context of Article 3 of the Hague Trusts Convention, Article 5(6) of the Brussels 1 Regulation and *Gomez v Gomez-Monche Vives* [2008] EWCA Civ 1065. It is gratifying now to see civil law States recognising the need for a properly protected ring-fenced fiduciary patrimony separate from the owner's private patrimony, eg Luxembourg Law of 27 July 2003, Swiss Debt Enforcement and Bankruptcy Act Art 284(a) and (b) and Italian Civil Code Art 2645-ter and Art 2447-bis.

Looking back on the new material, what are the most significant developments? The Perpetuities and Accumulations Act 2009 enables more flexible

trusts than ever before to be created eg a trust to accumulate income for 125 years and then to pay the capital to the charitable corporation incorporated on the most recent day before expiry of the 125 years (or, if more than one, to such corporations equally), but with power, instead, for the trustees in their absolute discretion to appoint income or capital before expiry of the 125 years to any persons whatsoever other than the settlor and his spouse and the trustee and a defined class of persons associated with the trustee. Alternatively, the objects of the power of appointment might be those persons (other than the settlor or his spouse) who prove themselves to be descendants of the settlor's grandfather and those persons (other than the settlor or his spouse) who have been nominated in signed writing by the former class of persons to become objects of such power.

The trustee could be burdened by obligations owed to a protector eg not without the protector's written consent to appoint more than £100,000 to an object in any calendar year, to pay out of the trust fund the usual professional fees of the protector for work done as protector, to produce accounts and information to the protector having power to replace the trustee with a new trustee and change the accounting currency of the trust and the proper law of the trust, having taken expert advice as to the tax implications thereof. Query whether until someone obtained an interest in possession in trust assets of a value exceeding, say, £100,000 the trustee could also be burdened by an obligation to the protector to augment the trust fund with the amounts of any losses caused by any breach of trust and the amount of any personal profits made in breach of trust. Query whether, to achieve this effectively, it would really be necessary to make the protector a beneficiary to the tune, say, of £100 p.a. Indeed, query whether until the beneficiaries were all ascertained, of full capacity and between themselves wholly beneficially entitled to the trust property, English law might develop to permit the settlor to expressly reserve a power to enforce the trust to himself or a corporate protector controlled by himself (and then the legatee of the shares in the protector), especially if this could be achieved via the express choice of a foreign governing law recognised under the Recognition of Trusts Act 1987.

The abolition of the presumption of advancement in s 199 of the Equality Act when brought into force will compel all transfers of property from one spouse to the other or from a parent to a child to lead to the recipient holding the property on resulting trust for the transferor unless sufficient evidence can be adduced to prove that the transfer was by way of gift. One would have thought that it made much more sense to start with such familial transfers being presumed to be gifts until the contrary was proved. Significantly, the new Government has brought most of the Equality Act 2010 into force on 1 October 2010, but not s 199 on which it seems there will be further consultation.

In the family homes sphere *Stack v Dowden* [2007] UKHL 17 is of major significance because the House of Lords' majority rejected the orthodox approach applied by the dissenting Lord Neuberger. Unfortunately, as appears from the Court of Appeal in *Kernott v Jones* [2010] EWCA Civ 578, the House of Lords left unclear whether a claimant has to rely on an express or inferred actual agreement or can rely on an imputed or imposed fictitious agreement. Was the use of 'imputed' agreement in Baroness Hale's leading speech merely meant as a synonym for 'inferred' agreement or was it



## Preface

accidentally left in the final version which had a paragraph indicating the need for a search for some actual agreement? Indeed, can one assume that a judge will have read a dissenting judgment and used language with a meaning corresponding to that in the dissent (though might the wording of the draft dissent that was read have changed in the final version) or, confident in her views, could the judge have ‘ploughed her own furrow’?

By the time of the next edition one would hope that the appellate courts will have determined whether or not the broad *Re Hastings-Bass* [1975] Ch 25 principle applicable to trustees’ distributive discretions and the generous *Ogilvie v Littleboy* (1897) 13 TLR 399 approach (rather than the restrictive *Gibbon v Mitchell* [1990] 1 WLR 1304 approach) to a settlor’s mistakes in settling property are ‘too good to be true’. The appeals in *Futter v Futter* and *Pitt v Holt* are due to be heard on 23 November: no doubt, judgments will be reserved.

One would also hope that the High Court and the Court of Appeal will no longer have to follow the Court of Appeal decision in *Lister v Stubbs* (1890) 45 Ch D 1 which was rejected in the unanimous Privy Council advice delivered by Lord Templeman in *Att-Gen for Hong Kong v Reid* [1993] UKPC 2. The Supreme Court should endorse the Privy Council, just as the House of Lords in *National Westminster Bank v Spectrum Plus Ltd* [2005] UKHL 41 endorsed the unanimous advice of the Privy Council in *Agnew v Commissioner of Inland Revenue* [2001] UKPC 28 that disapproved the Court of Appeal decision in *Re New Bullas Trading Ltd* [1994] 1 BCLC 449. It is much to be regretted that the Court of Appeal in *National Westminster* [2004] EWCA Civ 670 at [58] held it had to follow *New Bullas* even though it stated ‘there can be little doubt’ that the Lords would hold *New Bullas* to have been wrongly decided (as it duly did). Such self-effacement or self-abasement seems more appropriate for bureaucrats deferring to imperial power in an ancient Chinese dynasty than for 21st century appellate judges.

In *National Westminster*, however, Lord Scott at [93] and Lord Walker at [155] (with whom Lord Steyn apparently agreed at [44]) considered the Court of Appeal rightly held itself bound to follow *New Bullas*. Baroness Hale, fortunately, at [163] pointed out that the House had heard no argument on this matter of precedent that did not affect the House. She expressed the hope that ‘it might in future be decided that the Court of Appeal or even the High Court could decline to follow a previous decision of the Court of Appeal which has been expressly disapproved as part of the ratio decidendi in a case in the Judicial Committee of the Privy Council on appeal from a country in which the law on the subject is the same as that in England and Wales’. She accepted that the House of Lords in *Davis v Johnson* [1979] AC 264 had stated that the Court of Appeal is bound by its own previous decisions with only three exceptions: except (1) to decide which of two conflicting decisions of its own to follow, (2) not to follow a decision of its own if satisfied it was given per incuriam, (3) to refuse to follow a decision of its own which, though not expressly overruled, cannot stand with a decision of the House of Lords. The House, however, had not been referred to the above-suggested fourth exception (extending the third exception to include the Privy Council) that was permitted by the Court of Appeal in *Worcester Works Finance Ltd v Cooden Engineering Co Ltd* [1972] 1 QB 210. She therefore hoped that

‘nothing which is said in this appeal is taken to rule out the possibility that a further exception or qualification might exist or be developed’ as she had indicated.

This further exception has been supported by Lawrence Collins J, now a Supreme Court Justice, in *Daraydan Holdings Ltd v Solland International Ltd* [2004] EWHC 622 (Ch) at [82]–[86]. He considered that ‘the system of precedent would be shown in a most unfavourable light’ if it forced a litigant to go all the way up to the House of Lords (now the Supreme Court) in order to have a decision of the Privy Council affirmed so that he could win his case, especially when there was such a substantial overlap between the membership of those two bodies.

This, however, is precisely what the claimant in *Sinclair Investments (UK) Ltd v Versailles Trade Finance Ltd* [2010] EWHC 1614 (Ch) has to do because the judge was bound to follow the Court of Appeal ratio in *National Westminster*. Often, of course, the disproportionate expense of such appellate litigation may well lead to a compromise so that the ‘proper’ legal position is not established for a very long time. Would our system of precedent not be more efficient and fairer if the onus was on the defendant claiming a Privy Council ratio to be incorrect to have to appeal to the Supreme Court to establish this?

Indeed, as Charles Mitchell mentioned when shown the draft Preface, such a consideration underpins the approach of Arden LJ in *Abou-Rahmah v Abacha* [2006] EWCA Civ 1492 at [65]–[68] in preferring the ratio of the Privy Council in *Barlow Clowes International Ltd v Eurotrust International Ltd* [2005] UKPC 37 (objective dishonesty suffices for personal liability as a dishonest assistant in a breach of trust) to the apparent ratio of the House of Lords in *Twinsectra Ltd v Yardley* [2002] UKHL 12 (subjective dishonesty required) though she was assisted by Lord Hoffmann’s revisionist – some might say, specious – interpretation of *Twinsectra* as a Privy Councilor in preference to the plain meaning of the words of himself and Lord Hutton in *Twinsectra*. Doubts have been expressed in *Starglade Properties Ltd v Nash* [2010] EWHC 99 (Ch) at [48] and [55] as to the correctness of the Privy Council’s re-interpretation of *Twinsectra* but other judges have pragmatically fallen into line with Arden LJ: see *Statek Corporation v Alford* [2008] EWHC 32 (Ch) at [98], *Khudairi v Abbey Brokers Ltd* [2010] EWHC 1486 (Ch) at [131]–[134] and *Independent Trustee Services Ltd v GP Noble Trustees Ltd* [2010] EWHC 1653 (Ch).

Enough of reflections, however, because it is time to express my heartfelt thanks to Paul Matthews and Charles Mitchell for keeping well within the schedule for preparing their Divisions. I am also most grateful for the valuable contribution made by Jonathan Harris, Professor of International Commercial Law at Birmingham University and barrister of Serle Court, New Square, Lincoln’s Inn, in significantly expanding the treatment in the 16th edition of the last chapter, ‘Conflict of Laws and The Hague Trusts Convention.’ I had added this chapter for the 14th and 15th editions, having the benefit of having headed the UK delegation to the XVth Session of The Hague Conference on Private International Law responsible for the Convention and having been on the drafting committee. Pressed for time in producing the 16th edition on my own and most impressed by Jonathan’s insightful book, *The Hague Trusts*

## Preface

*Convention* (Hart Publishing, 2002), I approached him for assistance. Thankfully, he agreed and produced a more substantial chapter subject to some fine tuning of my own. For the 17th edition he kindly found time to update the chapter, again subject to some fine tuning. For this edition I have updated and expanded the chapter. I am most grateful, as ever, to the publishers for preparing the index and the table of cases and statutes and particularly grateful to Claire Banyard as sub-editor for coping with the re-numbering of Articles and re-ordering of some material within those Articles.

While it is hoped that the law is accurately expounded up to 1 November 2010, please note that the views expressed herein are for the purpose of further consideration only and are not to be acted upon without professional advice. No responsibility can be accepted for any loss occasioned to any person, no matter howsoever caused or arising as a direct or indirect consequence of action taken or refrained from in reliance on the contents hereof. It is to be noted that my views are only provisional views taken in the absence of the testing forensic argument to be found when an actual case is before the court: only such ‘argued law is tough law’ as explained by Megarry J in *Cordell v Second Clanfield Properties Ltd* [1969] 2 Ch 9 at 16 when emphasising that ‘the process of authorship is entirely different from that of judicial decision’ and rejecting the view he had taken in the third edition of Megarry & Wade’s *Real Property*. Indeed, upon further reflection on the Court of Appeal judgment given by Dillon LJ in *Hunter v Moss* [1994] 1 WLR 452 I have revised the view I had expressed in previous editions. I now believe that the result is justifiable, though still not the Court’s reasoning.

*Hon Mr Justice David Hayton*  
Caribbean Court of Justice  
All Souls Day 2010

# Table of Statutes

Paragraph references printed in **bold type** indicate where the Statute is set out in part or in full.

	PARA		PARA
Access to Health Records Act 1990 ....	56.71	Administration of Justice Act 1920 .....	100.237
Access to Medical Reports Act 1988 ...	56.71	Administration of Justice Act 1965	
Access to Personal Files Act 1987 .....	56.71	s 6(1) .....	87.51
Accessories and Abettors Act 1861		Administration of Justice Act 1982	
s 8 .....	16.10	s 20 .....	15.25, 20.5
Administration of Estates Act 1925 ....	11.69,	21 .....	8.216, 8.232, 15.26, 23.1
26.2, 54.5, 100.230		22 .....	1.93, 6.5, 8.24, 8.230
s 1 .....	8.19, 69.1	Administration of Justice Act 1985	
2(2) .....	1.47	s 9 .....	49.79
3 .....	69.1	48 .....	8.230, 83.5, 93.7
(1) .....	1.47	(1) .....	50.15, 85.1
7 .....	1.48, 69.6, 69.7	(2) .....	85.1
5 .....	9.50	50 .....	1.48, 70.32, 71.53, 74.1
9 .....	75.1, 73.20	(4) .....	74.4
21A .....	9.48	Adoption Act 1976	
28 .....	27.13	s 39 .....	25.32
33 .....	3.1, 22.2, 41.3, 100.85	42(5) .....	66.22
(1) .....	100.171	45 .....	50.1, 50.12, 93.5
(4) .....	26.27	(3) .....	50.13
(5) .....	46.7, 46.26	Agricultural Holdings Act 1986	
36 .....	73.10	s 86(1) .....	47.14
(1) .....	36.3	87 .....	47.14
(4) .....	36.3, 41.8, 55.13	89(1) .....	47.33
41 .....	1.48, 44.49, 44.50, 44.52, 44.55,	Sch 7 .....	47.33
55.28, 83.2		Anti-terrorism, Crime and Security	
(2) .....	49.48	Act 2001 .....	19.2
42 .....	62.7, 71.21, 83.2	Apportionment Act 1870 .....	11.74, 44.44,
44 .....	94.30	46.9, 46.19, 62.10	
45 .....	26.1, 26.27	Arbitration Act 1996 .....	11.79, 11.83
46 .....	30.1	s 82(2) .....	11.84
(1)(i)–(v) .....	26.28	Armed Forces Act 2006	
(vi) .....	26.27	s 356 .....	10.16
47 .....	29.3	Bankruptcy Act 1914 .....	16.2, 81.29
(1)(i) .....	62.7	s 38 .....	39.10
(iii) .....	44.57, 44.64, 63.3	Bills of Sale Act 1878 .....	9.14
49(1)(a) .....	12.102, 44.57, 44.65	Bodies Corporate (Joint Tenants)	
51(3) .....	5.4, 62.9	Act 1899 .....	71.1, 71.80
55(1)(xix) .....	36.3		
Administration of Estates Act 1971			
s 10(2) .....	61.5		

# Table of Statutes

	PARA
Bribery Act 2010	
s 1 .....	92.1
2 .....	92.20
(1) .....	92.1
3 .....	92.20
British Nationality Act 1981	
s 50 .....	14.2
Capital Gains Tax 1979	
s 72(4) .....	8.66
Charging Orders Act 1979	
s 2 .....	39.7
(1)(a) .....	39.4
(b) .....	39.4
(i) .....	12.15
Charitable Trusts (Validation)	
Act 1954 ...	8.117, 8.132, 8.135, 8.136, 8.138, 8.143
s 1(1) .....	8.131, 8.134, 8.141
(2), (3) .....	8.140
2(1)–(3) .....	8.141
3 .....	8.142
Charities Act 1960	
s 14(5) .....	23.38
28 .....	52.4
34 .....	52.4
38 .....	71.80
48 .....	71.80
Sch 7	
Pt II .....	71.80
Charities Act 1993	
s 13 .....	7.1, 8.34
14 .....	8.34
(7) .....	23.38
14A .....	23.38
14B .....	8.34
16 .....	8.34
33 .....	8.144, 8.158
35 .....	33.3
37–39 .....	40.1
Pt VII (ss 50–62) .....	77.5
Children Act 1975	
Sch 3	
para 43 .....	11.20
Children Act 1989	
s 2 .....	25.45
Sch 1 .....	41.55
Civil Jurisdiction and Judgments	
Act 1982	
s 18, 19 .....	100.237
32(1) .....	100.237
33 .....	100.238
45 .....	100.238
Sch 4 .....	100.224
Sch 6 .....	100.237
Sch 7 .....	100.237
Civil Liability (Contribution)	
Act 1978 ....	97.2, 97.6, 97.27, 100.169
s 1 .....	97.1, 97.7, 97.26
(1) .....	97.3
(6) .....	97.4

	PARA
Civil Liability (Contribution)	
Act 1978— <i>contd</i>	
s 2 .....	97.1
(1) .....	97.5, 97.7
(2) .....	97.3, 97.5
6 .....	97.1
(1) .....	97.3
7(1), (2) .....	97.4
(3) .....	97.3
10(2) .....	97.4
Civil Partnership Act 2004	
Sch 4	
para 5 .....	8.230
14 .....	18.1
Sch 5	
Pt 14	
para 74, 75 .....	18.1
Coal Industry Act 1994	
Sch 5	
para 2 .....	77.5
Coal Industry Nationalisation	
Act 1946 .....	77.5
Commonhold and Leasehold Reform	
Act 2002	
s 93A .....	37.9
109 .....	37.10
Sch 3	
para 8 .....	37.11
Sch 5	
para 8 .....	41.19
Sch 6	
para 3(7) .....	37.10
Sch 8	
para 33 .....	37.9
Companies Act 1867	
s 25 .....	44.20
Companies Act 1900 .....	44.20
Companies Act 1948	
s 78 .....	9.34
320 .....	1.37
Companies Act 1985 .....	12.74, 44.22
s 183 .....	9.34
313, 314 .....	3.1
360 .....	52.1, 52.9, 100.221
395 .....	1.36, 1.41
425 .....	44.23
654 .....	26.1
690A(2) .....	100.232
Sch 21A	
para 3 .....	100.232
Companies Act 1989	
s 207 .....	49.74
Companies Act 2006 .....	12.74, 30.5
s 31 .....	13.17
39(1) .....	13.18
40(1), (2) .....	13.19
(4), (5) .....	13.20
41 .....	13.19
(4)(d) .....	27.46
42 .....	13.18, 13.19
126 .....	100.221

	PARA		PARA
Companies Act 2006— <i>contd</i>		Data Protection Act 1998— <i>contd</i>	
Pt 10, Ch 4 (ss 188–226) .....	27.46, 27.89	s 4 .....	42.31a
s 217–219 .....	3.1	5 .....	56.72
222 .....	3.1	7 .....	42.31a, 56.73
239 .....	16.8	17 .....	42.31a, 56.72
750 .....	1.104	18, 19 .....	42.31a
(1), (2) .....	48.73	Sch 1 .....	42.31a
751 .....	48.73	Sch 2 .....	42.31a
770 .....	1.47	Sch 3 .....	42.31a
771 .....	1.47, 9.22, 9.34	Debtors Act 1869	
772 .....	1.47	s 3 .....	39.9
773(b) .....	1.47	4 .....	39.9
874 .....	1.39, 1.40, 1.41, 1.42, 1.107, 1.113, 9.14	proviso .....	39.9
981 .....	22.2	Debtors Act 1878 .....	39.9
1139 .....	100.232	Deeds of Arrangement Act 1914	
Table A		s 2, 3 .....	8.254
Pt I		Domicile and Matrimonial Proceedings Act 1973	
art 29–31 .....	1.47	s 1 .....	11.136
Compensation (Defence) Act 1939 .....	31.20	Drug Trafficking Act 1994	
Compulsory Purchase Act 1965 .....	47.9	s 50 .....	98.73
Consumer Credit Act 1974 .....	98.15	Education (Miscellaneous Provisions) Act 1953	
Contracts (Applicable Law) Act 1990		s 14 .....	43.3
s 2(2) .....	100.203	Emergency Laws (Miscellaneous Provisions) Act 1953	
Contracts (Rights of Third Parties) Act 1999 .....	1.18, 1.22, 8.152, 8.197, 9.82, 9.84, 9.86, 9.94, 9.112, 9.121, 12.36, 22.20, 94.23	s 9 .....	43.117
s 1 .....	9.81	Enduring Powers of Attorney Act 1985 .....	13.13, 51.21, 51.40
7(1) .....	9.81	Environmental Protection Act 1990	
(3) .....	9.81	Pt IIA (ss 78A–78YC) .....	81.8
10 .....	30.61	Equality Act 2010	
Conveyancing Act 1881		s 199 .....	3.4, 24.1, 25.1, 25.54
s 34 .....	73.3	(2)(a) .....	24.19, 25.31
38 .....	69.2	Evidence (Proceedings in Other Jurisdictions) Act 1975	
Conveyancing Act 1911		s 2(4) .....	56.40, 56.41
s 8 .....	69.7	Exchange Control Act 1947	
County Courts Act 1959		s 18(2), (3) .....	11.109
s 52 .....	71.1	29 .....	11.1, 11.109
County Courts Act 1981		Factors Act 1889 .....	1.44, 28.1, 98.15
s 38 .....	39.6	s 2(1) .....	1.38
107 .....	39.6	9 .....	1.38
County Courts Act 1984		Family Law Act 1996 .....	15.2
s 23 .....	43.88, 71.32, 83.1	s 15 .....	100.178
24(3) .....	43.88	33(6) .....	41.47
Criminal Justice Act 1988 .....	24.1	Sch 2 .....	100.178
Pt IV (ss 35, 36) .....	19.2	Family Law Reform Act 1969 .....	11.64, 11.114, 14.3, 26.27, 71.9
s 74(1)(b) .....	19.2	s 1 .....	13.2, 43.12
(10) .....	19.2	(1), (2) .....	11.53
80(6) .....	19.2	(4) .....	11.53
82(3), (4) .....	19.2	(7) .....	11.53, 49.1, 62.1
93A .....	98.73	12 .....	13.2
Criminal Law Act 1977 .....	16.10	14 .....	11.69
Criminal Procedure (Insanity) Act 1964		15(3) .....	11.69
s 1 .....	29.5	(7) .....	11.88
Data Protection Act 1998 .....	42.1, 56.1, 56.71		
s 1 .....	42.31a, 56.72		
2 .....	56.72		



## Table of Statutes

	PARA
Family Law Reform Act 1969— <i>contd</i>	
Sch 3	
para 7 .....	11.53
Family Law Reform Act 1987 .....	11.114, 26.27
s 14–17 .....	50.11
19(7) .....	11.88
20 .....	50.11
Finance Act 1978	
s 54 .....	11.78
Finance Act 1985	
s 82 .....	12.17
Finance Act 1989	
s 67–73 .....	1.134
Sch 5 .....	1.134
Finance Act 2004	
s 320, 321 .....	94.39
Finance Act 2006	
s 156 .....	5.1
Sch 20 .....	5.1
Finance Act 2007	
s 107 .....	94.39
Financial Services Act 1986 .....	43.114
s 84 .....	48.74
192(1)(a)–(c) .....	49.5
Financial Services and Markets	
Act 2000 ... 1.125, 13.22, 13.24, 33.3, 42.15, 98.73	
s 19 .....	13.21
22 .....	13.21
137 .....	100.89
235(2) .....	1.126
236 .....	1.122
237(1) .....	1.126
242 .....	1.124
243 .....	1.124
(4), (5) .....	1.123
244–248 .....	1.124
253 .....	1.123
Sch 2 .....	13.21
Fires Prevention (Metropolis) Act 1774	
s 83 .....	31.18
Foreign Judgments (Reciprocal Enforcement) Act 1933 .....	100.237
Forfeiture Act 1982	
s 1(2) .....	29.6
2(1) .....	29.6
(3), (4) .....	29.6
(7) .....	29.6
5 .....	29.6
Fraud Act 2006	
s 1–3 .....	92.18
4 .....	92.1, 92.14, 92.18, 92.19
13 .....	56.63
Freedom of Information Act 2000 .....	56.1
s 1 .....	56.74
3, 4 .....	56.74
Sch 1 .....	56.74
Friendly Societies Act 1829 .....	23.29, 23.33
Friendly Societies Act 1896	
s 49(1) .....	23.32

	PARA
Friendly Societies Act 1896— <i>contd</i>	
s 79(4) .....	23.31
Friendly Societies Act 1974	
s 53 .....	8.190
Gas Act 1986	
Pt II (ss 49–61) .....	77.5
Gender Recognition Act 2004	
s 9(1), (2) .....	50.13a
15 .....	50.13a
17(1)–(3) .....	50.13a
18(1)–(5) .....	50.13a
Highways Act 1980	
s 212, 213 .....	47.9, 47.16
Hire Purchase Act 1964 .....	28.1
Historic Buildings and Ancient Monuments Act 1953	
s 8(5) .....	11.35
8A(5) .....	11.35
8B(5) .....	11.35
Human Fertilisation and Embryology Act 1990	
s 27, 28 .....	11.16
Human Rights Act 1998 .....	11.108, 11.113, 56.63
s 3(1) .....	43.44
6(1) .....	11.97
(3)(a) .....	11.97
(5) .....	11.97
Sch 1	
art 8(1) .....	48.23
Hunting Act 2004 .....	8.182
Income and Corporation Taxes	
Act 1988 .....	44.16
s 18(3) .....	44.14
186, 187 .....	1.134
348 .....	44.14
590–594 .....	1.127
660A(2) .....	100.164
660B .....	62.2
672 .....	43.17
673 .....	8.90
675 .....	43.17
686 .....	62.9, 81.26
687 .....	62.9
Sch 9 .....	1.134
Sch 10 .....	1.134
Income Tax Act 1952	
s 415(1)(d) .....	23.6
(2) .....	23.6
Income Tax Act 2007	
s 479, 480 .....	5.2
481, 482 .....	1.134
488, 489 .....	1.134
494 .....	5.2
Income Tax (Earnings and Pensions) Act 2003	
s 307, 308 .....	1.127

	PARA		PARA
Infants Relief Act 1874		Insolvency Act 1986— <i>contd</i>	
s 2 .....	13.3	s 341 (3), (4) .....	16.1
Inheritance (Provisions for Family and		342 .....	16.2, 16.8, 16.9, 17.10, 100.199
Dependants) Act 1975 .....	7.1, 8.12,	(1)(a), (b) .....	16.6
8.27, 8.114, 12.104		(d) .....	16.6
s 10 .....	12.111, 18.1, 18.6	(g) .....	16.6
(2)(a) .....	18.5	(2) .....	16.1
(b) .....	18.7	352 .....	16.10
(7) .....	18.5	357 .....	16.10
11 .....	18.1, 18.6	423 .....	4.18, 17.2, 17.6, 17.11, 94.41,
(2)(c) .....	18.7	100.198	
12(1) .....	18.5	(1), (2) .....	17.1
(2) .....	18.1	(3) .....	16.10, 17.1, 17.10
13 .....	100.196	(5) .....	17.1
(1) .....	18.6	424(1)(a) .....	17.2
(2) .....	18.7	(b) .....	17.3
25(1) .....	11.139	(c) .....	17.5
Inheritance Tax Act 1984		(2) .....	17.4, 17.5, 17.8
s 5(2) .....	1.65	425(1)(a), (b) .....	17.7
49–50 .....	5.1, 5.2	(d) .....	17.7
51, 52 .....	5.1, 5.2, 62.1	(2) .....	17.1, 17.6
53–64 .....	5.1, 5.2	435(2) .....	16.1
65 .....	5.1, 5.2, 49.41	(5) .....	16.7
66–84 .....	5.1, 5.2	Interpretation Act 1978 .....	41.24, 71.80
71 .....	43.17, 49.43	Sch 1 .....	54.6
72 .....	13.17	Intestates' Estates Act 1952	
75 .....	13.17	Sch 1 .....	26.27, 26.28
83 .....	6.7	Judicial Trustees Act 1896 ...	71.1, 74.2, 74.3
91 .....	6.7	s 1(1)–(4) .....	74.1
142 .....	8.26, 15.20	(5) .....	54.31, 74.1
(1) .....	15.17	(6) .....	74.1
204(2) .....	81.8	(7) .....	74.4
Sch 4 .....	8.155	2 .....	74.1
Insolvency Act 1986 .....	24.24	3 .....	93.2
Pt I (ss 1–7) .....	17.3	4 .....	74.6
s 110 .....	49.31	(1) .....	74.1
238 .....	16.1	Land Charges Act 1925 ...	1.93, 2.10, 99.25
239 .....	1.37, 16.1	Land Charges Act 1972 ...	1.93, 2.10, 12.74,
Pt VIII (ss 252–263) .....	17.3	30.5	
s 253 .....	8.254	s 7 .....	8.254
264(1)(d) .....	16.1	Land Compensation Act 1961	
283(3) .....	1.97, 39.1	s 23 .....	37.7
(a) .....	39.12	Sch 3	
(4) .....	1.65, 39.11	para 7 .....	37.7
283A .....	41.1	Land Registration Act 1925 ...	1.93, 2.6, 2.8,
(1), (2) .....	41.57a	2.10, 12.74, 22.1,	
(4)–(9) .....	41.57a	28.6, 30.5	
306 .....	11.73	s 5 .....	28.1
310 .....	11.72	9 .....	28.1
313 .....	41.57a	20 .....	59.2
335A .....	41.48, 41.56, 43.100	(1) .....	28.1, 99.58
335A(3) .....	41.1, 41.57	23 .....	28.1, 59.2
336(5) .....	41.57	(1) .....	99.58
339 .....	3.10, 7.1, 16.2, 16.3, 16.4, 16.5,	41 .....	36.5
17.10, 100.199		59(6) .....	28.1
(1)–(3) .....	16.1	70(1)(g) .....	99.34
340 .....	7.1, 16.8, 100.199	86(2) .....	99.58
(2)–(5) .....	16.1		
341 .....	16.2, 16.8, 17.10, 100.199		
(1)(b), (c) .....	16.1		
(2) .....	16.1, 16.7		

# Table of Statutes

	PARA
Land Registration Act 1997	
s 1 .....	36.5
Land Registration Act 2002 .....	1.93, 12.74, 22.1, 28.6, 30.5
s 4 .....	41.8
(1)(a) .....	36.5
7 .....	4.3, 9.20
11, 12 .....	28.1
24 .....	36.5
26 .....	41.1, 41.9, 41.61, 59.2
27(5) .....	73.7
(a) .....	36.5
28 .....	2.6, 12.64, 28.1
29 .....	2.8, 12.64, 15.55, 28.1, 59.2, 98.15, 99.58
30 .....	2.8, 12.64, 28.1, 59.2, 99.58
33 .....	100.221
(a) .....	2.8, 99.58
40 .....	2.8, 8.254
58 .....	34.7, 73.7
65 .....	34.7
91–93 .....	9.21
116 .....	2.8, 15.55, 22.18, 30.49, 99.34
(b) .....	12.64
132(1) .....	12.64
Sch 3	
para 2 .....	2.10, 99.34
a) .....	2.8
Sch 4 .....	34.7
Sch 6 .....	94.14
para 1–3 .....	38.8
5–7 .....	38.8
11, 12 .....	38.8
Land Transfer Act 1897 .....	69.5
Landlord and Tenant Act 1954 .....	48.22
Landlord and Tenant Act 1987	
s 42 .....	8.155, 22.2
Law of Property Act 1922 .....	70.7
s 110(9) .....	70.4
Law of Property Act 1925 .....	2.4, 2.6, 2.10, 11.53, 12.47, 12.75, 12.76, 41.34, 71.9
s 1 .....	36.2
(1) .....	2.2, 49.38
(2), (3) .....	2.2
(4) .....	49.1, 49.37, 49.38
(6) .....	9.45, 13.3
(7) .....	1.66
2 .....	1.97, 28.1, 41.1, 41.61
(1)–(5) .....	99.23
4 .....	36.2
(2) .....	10.3
9(1) .....	73.4, 73.12
19 .....	3.1, 13.3
20 .....	13.5, 71.38
24 .....	41.7, 99.21
25 .....	99.21
(1) .....	41.3
26(3) .....	41.16, 41.29
27 .....	28.1, 41.1, 41.61, 51.28, 69.1, 90.17

	PARA
Law of Property Act 1925— <i>contd</i>	
s 27 (2) .....	1.48, 1.97, 33.3, 59.2, 59.3, 70.3, 70.13, 71.41, 76.7
28 .....	41.43, 43.115, 46.1
(1) .....	47.27, 47.29
(2) .....	47.27, 47.29
29 .....	41.43, 66.24
30 ....	30.43, 41.28, 41.43, 41.47, 41.48, 41.50, 41.53, 41.54
34 .....	3.1, 22.2, 27.23, 41.3
(1) .....	25.6, 100.84
(2) .....	100.84
35 .....	3.1
36 .....	3.1, 22.2, 27.23, 41.3
(4) .....	100.69
40 .....	12.1, 12.9, 12.44
(1) .....	12.10
(5) .....	99.32
47 .....	31.19
53 .....	8.197, 30.1
(1) .....	3.2
(a) .....	12.9, 12.10
(b) ...	3.1, 3.3, 8.5, 12.1, 12.8, 12.9, 12.10, 12.12, 12.14, 12.15, 12.34, 12.44, 12.66, 12.68, 12.69, 12.71, 12.72, 12.73, 12.94, 14.4, 22.12, 30.31, 30.48, 30.72, 100.61, 100.79, 100.81
(c) .....	8.22, 9.2, 9.22, 9.25, 9.36, 9.44, 12.1, 12.5, 12.6, 12.10, 12.11, 12.14, 12.15, 12.16, 12.20, 12.25, 12.28, 12.29, 12.31, 12.32, 12.33, 12.34, 12.35, 12.36, 12.37, 12.41, 12.42, 12.43, 12.44, 14.4, 43.84, 43.85, 73.6
(2) .....	3.2, 3.11, 12.1, 12.5, 12.13, 12.15, 12.67, 12.68, 12.77, 12.94, 23.1, 43.85
55(d) .....	12.1, 12.9, 30.31
56 .....	9.84
60 .....	6.3, 20.3
(3) .....	3.4, 25.1, 25.58, 25.59
72(4) .....	55.13
82 .....	55.13
88 .....	1.65
101 .....	1.65, 49.23
103 .....	49.23
104 .....	1.65
(2) .....	49.23
107 .....	99.20
111 .....	99.20
113 .....	99.20
130, 131 .....	6.3, 20.3