

John Duddington



Blueprints

Your plan for learning

Equity and Trusts

Blueprints

Equity and trusts

Blueprints

Blueprints: Equity and Trusts

Table of Contents

Cover

Contents

Tables of cases and statutes

Acknowledgement

How to use this guide

What is a Blueprint?

Introduction

Study skills

Part 1 Equity: general principles

1 Nature of equity

Setting the scene

WHAT DOES EQUITY DO?

HOW AND WHY DID EQUITY DEVELOP?

EQUITY AND COMMON LAW

EQUITY TODAY

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

2 Equitable remedies and doctrines

Setting the scene

MAIN PRINCIPLES ON WHICH EQUITABLE REMEDIES ARE GRANTED AND
WITHHELD

INJUNCTIONS

FREEZING ORDERS

SEARCH ORDERS

Table of Contents

SPECIFIC PERFORMANCE
EQUITABLE DAMAGES
RESCISSION
RECTIFICATION
EQUITABLE DOCTRINE: UNDUE INFLUENCE
KEY POINTS
CORE CASES AND STATUTES
FURTHER READING

Part 2 Trusts: nature of a trust and creation of express trusts

3 The concept of a trust

Setting the scene
WHAT IS A TRUST?
ESSENTIAL CHARACTERISTICS OF A TRUST
ORIGIN OF THE TRUST
MAIN USES TO WHICH TRUSTS ARE PUT TODAY
THE CONCEPT OF EQUITABLE OWNERSHIP
THE EQUITABLE PROPRIETARY INTEREST
TRUSTS AND CONTRACTS
KEY POINTS
CORE CASES AND STATUTES
FURTHER READING

4 Creating the trust: certainties

Setting the scene
INTRODUCTION
CERTAINTY OF INTENTION: IS THERE A TRUST?
CERTAINTY OF SUBJECT MATTER: IF THERE IS AN INTENTION TO
 CREATE A TRUST, THEN WHAT IS IT OF?
THE APPROACH IN HUNTER V. MOSS
CERTAINTY OF OBJECTS AND TRUSTS
CERTAINTY OF OBJECTS AND POWERS OF APPOINTMENT

Table of Contents

TRUSTS AND THE RULES CONCERNING REMOTENESS OF VESTING

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

5 Creating the trust: formalities

Setting the scene

INTRODUCTION

DECLARATION OF A TRUST OF LAND OR OF AN INTEREST IN LAND

DISPOSITIONS OF EQUITABLE INTERESTS

OPERATION OF SECTION 53(1)(B) AND SECTION 53(1)(C)

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

6 Completely and incompletely constituted trusts

Setting the scene

INTRODUCTION

WHAT DOES THE TERM COMPLETELY CONSTITUTED MEAN?

WHEN IS A TRUST COMPLETELY CONSTITUTED?

TWO SITUATIONS WHERE EQUITY RELAXES THE RULES ON CONSTITUTION
OF A TRUST

INCOMPLETELY CONSTITUTED TRUSTS: WHAT IS AN INCOMPLETELY
CONSTITUTED TRUST?

CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

EXCEPTIONS TO THE RULE THAT EQUITY WILL NOT PERFECT AN
IMPERFECT GIFT

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

7 Creating the trust: secret and half secret trusts; mutual wills

Setting the scene

INTRODUCTION: AN OUTLINE OF THE LAW OF WILLS

Table of Contents

SECRET AND HALF SECRET TRUSTS

REQUIREMENTS FOR THE VALIDITY OF A SECRET TRUST

REQUIREMENTS FOR THE VALIDITY OF A HALF SECRET TRUST

BASIS ON WHICH EQUITY ENFORCES SECRET AND HALF SECRET TRUSTS

SECRET AND HALF SECRET TRUSTS AND THE FORMALITIES REQUIRED
FOR THE MAKING OF WILLS

SECRET AND HALF SECRET TRUSTS IN SITUATIONS OTHER THAN WILLS

OTHER RULES APPLICABLE ONLY TO HALF SECRET TRUSTS

QUESTIONS APPLICABLE TO BOTH SECRET AND HALF SECRET TRUSTS

MUTUAL WILLS

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

Part 3 Resulting trusts, constructive trusts, trusts of the home

8 Resulting trusts

Setting the scene

WHAT IS MEANT BY A RESULTING TRUST?

SITUATIONS WHERE A RESULTING TRUST CAN ARISE

BASIS OF THE RESULTING TRUST

PURCHASE OF PROPERTY IN THE NAME OF ANOTHER OR IN THE JOINT
NAMES OF THE PURCHASER AND ANOTHER

REBUTTING THE PRESUMPTION OF ADVANCEMENT

THE QUISTCLOSE TRUST

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

9 Constructive trusts; proprietary estoppel

Setting the scene

INTRODUCTION

CONSTRUCTIVE TRUSTS

Table of Contents

FIDUCIARIES AND CONSTRUCTIVE TRUSTS
WHERE A STATUTE HAS BEEN USED AS AN ENGINE OF FRAUD
THE REMEDIAL CONSTRUCTIVE TRUST
PROPRIETARY ESTOPPEL
UNJUST ENRICHMENT
KEY POINTS
CORE CASES AND STATUTES
FURTHER READING

10 Trusts of the home

Setting the scene
INTRODUCTION
THE DEVELOPMENT OF THE LAW UNTIL STACK V. DOWDEN
THE PRESENT LAW
APPROACHES OF OTHER JURISDICTIONS
THE FUTURE OF THE LAW ON TRUSTS OF THE HOME
KEY POINTS
CORE CASES AND STATUTES
FURTHER READING

Part 4 Trusts for purposes

11 Charitable trusts

Setting the scene
INTRODUCTION
TYPES OF CHARITABLE ORGANISATIONS
REGISTRATION AS A CHARITY
CHARITABLE PURPOSES RECOGNISED UNDER THE CHARITIES ACT 2011
CHARITABLE PURPOSES UNDER THE CHARITIES ACT 2011 IN DETAIL
THE REQUIREMENT THAT CHARITIES MUST BE FOR THE PUBLIC BENEFIT
POLITICAL TRUSTS
THE OBJECTS OF THE TRUST MUST BE EXCLUSIVELY CHARITABLE
FAILURE OF CHARITABLE GIFTS
KEY POINTS

Table of Contents

CORE CASES AND STATUTES

FURTHER READING

12 The beneficiary principle and non-charitable-purpose trusts

Setting the scene

INTRODUCTION

WHY ARE TRUSTS FOR NON-CHARITABLE PURPOSES GENERALLY HELD TO
BE VOID?

VALID NON-CHARITABLE-PURPOSE TRUSTS AND THE RULE AGAINST
INALIENABILITY

TRUSTS EXPRESSED FOR A PURPOSE BUT WHICH ARE REALLY FOR THE
BENEFIT OF INDIVIDUALS

GIFTS TO UNINCORPORATED ASSOCIATIONS

DISPOSAL OF SURPLUS FUNDS OF UNINCORPORATED ASSOCIATIONS

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

Part 5 Management of trusts and breach of trust

13 Trusteeship

Setting the scene

TRUSTEES: WHO CAN BE ONE AND HOW ARE THEY APPOINTED?

PROTECTION OF PURCHASERS

DUTIES AND POWERS OF TRUSTEES

EXERCISE OF TRUSTEES DISCRETION

POWER OF DELEGATION

FIDUCIARY NATURE OF TRUSTEESHIP

PARTICULAR POWERS OF TRUSTEES

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

14 Duty of investment

Setting the scene

Table of Contents

WHAT IS AN INVESTMENT?

STATUTORY INVESTMENT POWERS UNDER THE TRUSTEE ACT 2000

APPLICATIONS TO THE COURT FOR WIDER INVESTMENT POWERS THAN
THOSE IN THE TRUST INSTRUMENT

MEASURE OF LIABILITY OF TRUSTEES FOR BREACH OF THEIR DUTY TO
INVEST TRUST FUNDS PROPERLY

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

15 Management of changes to the beneficial entitlement

Setting the scene

POWERS OF MAINTENANCE AND ADVANCEMENT

RELATIONSHIP BETWEEN STATUTORY POWERS AND POWERS CONTAINED IN
THE TRUST INSTRUMENT

POWER OF MAINTENANCE

POWER OF ADVANCEMENT

REFORM IN THIS AREA

VARIATION OF TRUSTS

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

16 Breach of trust and remedies

Setting the scene

INTRODUCTION

REMEDIES OF THE BENEFICIARY: A SUMMARY

PERSONAL REMEDIES

REMEDIES AGAINST THIRD PARTIES

TRUSTEE DE SON TORT

TRACING

LIABILITY OF INDIVIDUAL TRUSTEES

EXEMPTION CLAUSES AND TRUSTEES

Table of Contents

PROTECTION OF TRUSTEES

KEY POINTS

CORE CASES AND STATUTES

FURTHER READING

Glossary

Index