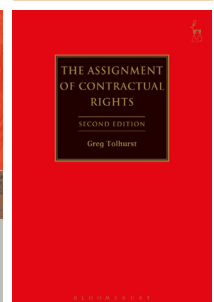
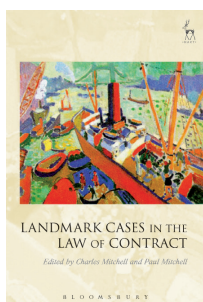
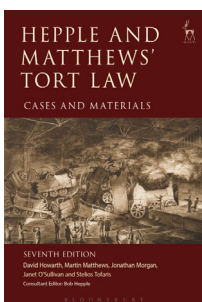
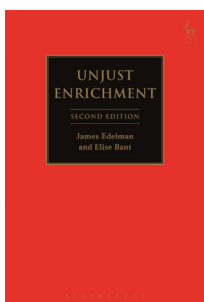
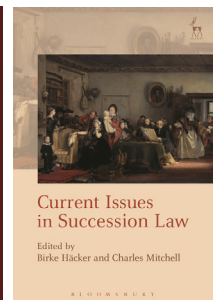
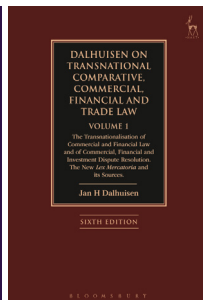
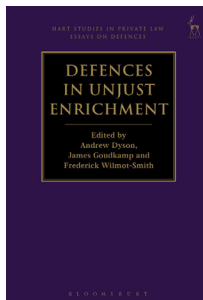
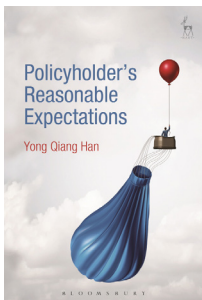
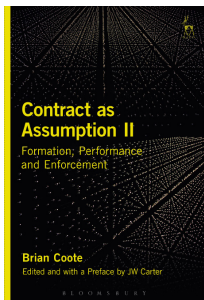
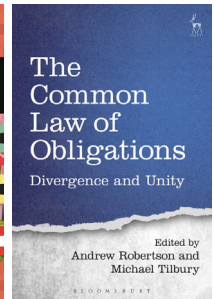
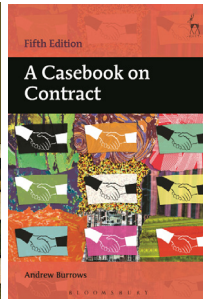
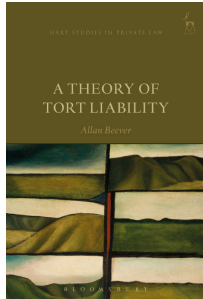
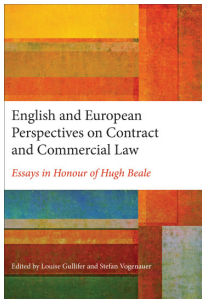
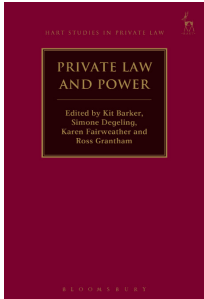


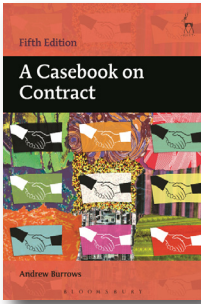
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# Private Law



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B L O O M S B U R Y



## FIFTH EDITION A Casebook on Contract *Andrew Burrows*

This is the fifth, fully updated, edition of Professor Burrows' casebook, offering law students the ideal way to discover and understand contract law through reading

highlights from the leading cases. Designed to be used either on its own or to supplement a contract law textbook, this book covers the undergraduate contract law course in a series of clearly presented and carefully structured chapters. The author provides an expert introduction to each topic and his succinct notes and questions seek to guide students to a proper understanding of the cases. The relevant statutes are also set out along with a principled analysis of them. In addition to cross-references to further discussion in the leading textbooks, an innovative feature is the summary of leading academic articles in each chapter. The book is designed not to overwhelm students by its length but covers all aspects of the law of contract most commonly found in the undergraduate curriculum.

**Andrew Burrows** is Professor of the Law of England in the University of Oxford.

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Sept 2016 | 9781509907700 | 936pp | Pbk  
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## THIRD EDITION Contract Law An Introduction to the English Law of Contract for the Civil Lawyer *John Cartwright*

This book gives an introduction to the English law of contract. The third edition has been fully

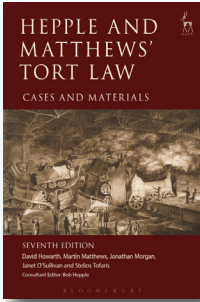
updated to cover recent developments in case law and recent statutes such as the Consumer Rights Act 2015. However, this new edition retains the primary focus of the earlier editions: it is designed to introduce the lawyer trained in a civil law jurisdiction to the method of reasoning in the common law, and in particular to the English law of contract. It is written for the lawyer — whether student or practitioner — from another jurisdiction who already has an understanding of a (different) law of contract, but who wishes to discover the way in which an English lawyer views a contract. However, it is also useful for the English law student: setting English contract law generally in the context of other European and international approaches, the book forms an introductory text, not only demonstrating how English contract law works but also giving a glimpse of different ways of thinking about some of the fundamental rules of contract law from a civil law perspective. After a general introduction to the common law system — how a common lawyer reasons and finds the law — the book explains the principles of the law of contract in English law covering all the aspects of a contract from its formation to the remedies available for breach, whilst directing attention in particular to those areas where the approach of English law is in marked contrast to that taken in many civil law systems.

**John Cartwright** is Professor of the Law of Contract at the University of Oxford.

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Jun 2016 | 9781509902910 | 360pp | Pbk  
RSP: £26.99

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## SEVENTH EDITION Hepple and Matthews' Tort Law

Cases and Materials  
*David Howarth,  
Martin Matthews,  
Jonathan Morgan,  
Janet O'Sullivan  
and Stelios Tofaris*  
Consultant Editor:  
*Bob Hepple*

New to Hart Publishing, this is the seventh edition of the classic casebook on tort, the first of its kind in the UK, and for many years now a bestselling and very popular text for students. This new edition retains all the features that have made it such a popular and respected text, with extensive commentary, questions and notes supplementing the selection of cases and statutes which form the core of the book. Taking a broadly contextual approach, the book addresses all the main topics in tort law, is up-to-date, doctrinally sound, stimulating and highly readable.

**David Howarth**, Professor of Law and Public Policy, University of Cambridge.

**Martin Matthews**, Emeritus Fellow of University College, Oxford.

**Jonathan Morgan**, Senior Lecturer in Law, University of Cambridge.

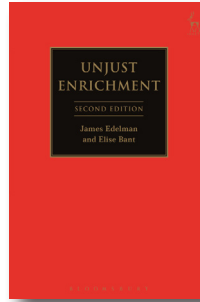
**Janet O'Sullivan**, Senior Lecturer in Law, University of Cambridge.

**Stelios Tofaris**, Lecturer in Law, University of Cambridge.

**Bob Hepple**, former Emeritus Professor of Law, University of Cambridge.

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Nov 2015 | 9781849465557 | 1248pp | Pbk  
RSP: £43.99



## Unjust Enrichment *James Edelman and Elise Bant*

Unjust enrichment is one of the least understood of the major branches of private law. This book builds on the 2006 work by the same authors,

which examined the developing law of unjust enrichment in Australia. The refinement of the authors' thinking, responding to novel issues and circumstances that have arisen in the maturing case law, has required many chapters of the book to be completely rewritten. The scope of the book is also much broader. It concerns the principles of the law of unjust enrichment in Australia, New Zealand, England and Canada. Major decisions of the highest courts of these jurisdictions in the last decade provide a fertile basis for examining the underlying principles and foundations of this subject. The book uses the leading cases, particularly in England and Australia, to distil and explain the fundamental principles of this branch of private law. The cases discussed are current as of 1 May 2016 although the most recent could only be included in footnotes.

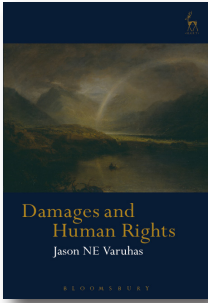
**James Edelman** is a Justice of the Federal Court of Australia and Adjunct Professor at the University of Queensland.

**Elise Bant** is Professor of Law at the University of Melbourne.

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Aug 2016 | 9781841133188 | 480pp | Pbk  
RSP: £32.99

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## Damages and Human Rights

*Jason NE Varuhas*

This is a major work on awards of damages for violations of human rights that will be of compelling interest to practitioners, judges and academics alike. Damages for breaches of

human rights is emerging as an important and practically significant field of law, yet the rules and principles governing such awards and their theoretical foundations remain underexplored, while courts continue to struggle to articulate a coherent law of human rights damages. The book's focus is English law, but it draws heavily on comparative material from a range of common law jurisdictions, as well as the jurisprudence of international courts.

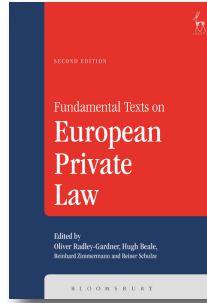
The current law on when damages can be obtained and how they are assessed is set out in detail and analysed comprehensively. The theoretical foundations of human rights damages are examined with a view to enhancing our understanding of the remedy and resolving the currently troubled state of human rights damages jurisprudence. The book argues that in awarding damages in human rights cases the courts should adopt a vindicatory approach, modelled on those rules and principles applied in tort cases when basic rights are violated. Other approaches are considered in detail, including the current 'mirror' approach which ties the domestic approach to damages to the European Court of Human Rights' approach to monetary compensation; an interest-balancing approach where the damages are dependent on a judicial balancing of individual and public interests; and approaches drawn from the law of state liability in EU law and United States constitutional law.

**Dr Jason NE Varuhas** is Associate Professor of Law, University of Melbourne and Associate Fellow, Centre for Public Law, University of Cambridge.

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May 2016 | 9781849463720 | 552pp | Hbk  
RSP: £95

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## SECOND EDITION

### Fundamental Texts on European Private Law

*Edited by Oliver Radley-Gardner, Hugh Beale, Reinhard Zimmermann and Reiner Schulze*

Among the most significant legal developments of our time is the emergence of a European private law. The European Union enacts directives which profoundly affect the practice, teaching and study of core areas of 'classical' private law. Internationally, commissions have formulated principles of European trusts, contract and commercial law. Furthermore, uniform private law can be found in a number of international conventions.

This second edition gathers together fundamental texts from these three sources into one convenient volume. Its emphasis is on general civil and commercial law, particularly on the obligations and property aspects of these.

This second edition is a sister volume to the original German edition, now in its 5th edition.

**Oliver Radley-Gardner** is a barrister at Falcon Chambers, London.

**Hugh Beale** is a Professor of Law at the University of Warwick and a former law commissioner for England and Wales.

**Reinhard Zimmermann** is Director of the Max-Planck-Institut fuer auslaendisches und internationales Privatrecht in Hamburg.

**Reiner Schulze** is professor of German and European Civil law at the Westfälische Wilhelms-Universität Münster, Germany.

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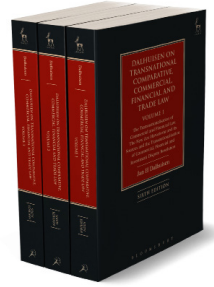
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## SIXTH EDITION

# Dalhuisen on Transnational Comparative, Commercial, Financial and Trade Law (Volumes 1-3)

*Jan H Dalhuisen*

This is the sixth edition of the leading work on transnational and comparative commercial and financial law, covering a wide range of complex topics in the modern law of international commerce, finance and trade. As a guide for students and practitioners it has proven to be unrivaled. The work is divided into three volumes, each of which can be used independently or as part of the complete work.



Volume one covers the roots and foundations of private law; the different orientations and structure of civil and common law; the concept, forces, and theoretical basis of the transnationalisation of the law in the professional sphere; the autonomous sources of the new law merchant or modern *lex mercatoria*, its largely finance-driven impulses; and its relationship to domestic public policy and public order requirements.

Volume two deals with transnational contract, movable and intangible property law.

Volume three deals with financial products and financial services, with the structure and operation of modern commercial and investment banks, and with financial risk, stability and regulation, including the fall-out from the recent financial crisis and regulatory responses in the US and Europe.

All three volumes may be purchased separately or as part of a set.

**Jan H Dalhuisen** is Professor of Law at King's College London and Miranda Chair in Transnational Financial Law in the Catholic University in Lisbon.

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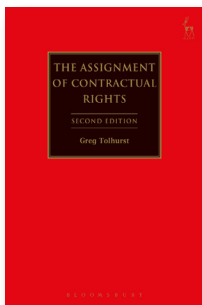
Volume 1 - The Transnationalisation of Commercial and Financial Law and of Commercial, Financial and Investment Dispute Resolution. The New *Lex Mercatoria* and its Sources  
August 2016 | 9781509907007 | 736pp | Hbk | RSP: £75

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3 Volume Set  
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## SECOND EDITION

# The Assignment of Contractual Rights

*Greg Tolhurst*

This book explains the existence, meaning and application of the rules governing the assignment of contractual rights. The second edition is updated and retains the structure of the first edition. In reviewing the first edition, The Hon JD Heydon said 'it is essential reading for ... teachers, especially those who teach contract, equity and personal property. Above all, it should always be consulted—read carefully, slowly and repeatedly—by any practitioner facing an assignment problem. ... It is not only the best book ever written on its subject, but among the best monographs dealing with legal doctrine published in recent years' (2008) 30 *Sydney Law Review* 169.

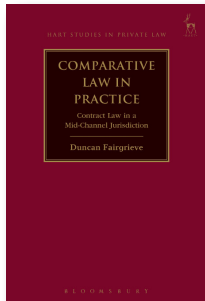
**Greg Tolhurst** is Professor of Commercial Law at the University of Sydney.

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# HART STUDIES IN PRIVATE LAW SERIES

This monograph series brings together in one place two types of book: works which examine in-depth the fundamental doctrines and principles of private law, and works which engage with the theoretical underpinnings of private law. The series thus aims to contribute to ever-evolving debates about the nature of private law such as problems of classification and taxonomy, remedies, the relationship with public law and the boundaries of private law generally.



## Comparative Law in Practice

Contract Law in a Mid-Channel Jurisdiction  
*Duncan Fairgrieve*

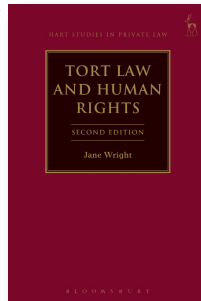
This book provides a comparative study of contract law, examining the interaction of common law and civil law

approaches to contract law. Drawing extensively upon English, French and European law, the book explores how the law of contract of Jersey, Channel Islands, has been influenced by both civil law and common law sources. It is argued that this jurisdiction is a striking example of comparative law in action, given that Jersey contract law is made up of a blend of common law and civil law approaches. Jersey law is premised upon a subjective approach to contracts, in which civil law concepts such as cause (rather than consideration) and vices de consentement are the foundational aspects, but is nonetheless highly influenced by the common law in areas such as remedies (damages, termination).

The book analyses a series of key issues from a comparative and European perspective, including the principles underlying contract law (comparing and contrasting civil and common law approaches), the formation of contract, requirements of reciprocity (cause vs consideration), the structure and approach of precontractual liability, the role of good faith in a mixed system, the architecture of remedies, and more.

**Duncan Fairgrieve** is Senior Research Fellow in Comparative Law at the British Institute of International and Comparative Law.

Series: Hart Studies in Private Law  
Oct 2016 | 9781782257219 | 208pp | Hbk  
RSP: £70



## SECOND EDITION Tort Law and Human Rights

*Jane Wright*

This is a completely revised and expanded second edition, building on the first edition with two principal aims: first, to elucidate the role that domestic tort

principles (including the new 'remedy' under the Human Rights Act 1998) play in securing to citizens the human rights standards laid down in the European Convention on Human Rights and, secondly, to evaluate tort principles for compliance with those standards. The first edition was written when the Human Rights Act 1998 was newly enacted and many questions existed as to its potential impact on tort law; answers to many of the questions which were raised at that time are only now emerging. Therefore the text has been completely updated to reflect these developments. Whether it is appropriate to attribute particular goals and functions to tort law is highly contested and the analysis begins by locating the discussion within these contemporary debates. The author goes on to examine the extent to which the action against public authorities under section 7 of the Act has impacted on the development of common law principles as well as the issue of horizontal effect of the Act between non-state actors. New chapters include: Public Authority Liability, Privacy and Autonomy Rights, Land Torts and Death.

**Jane Wright** is a Professor of Law at the University of Essex.

Series: Hart Studies in Private Law  
Mar 2017 | 9781841139074 | 364pp | Hbk  
RSP: £55

## Negligence and Illegality

Sharon Erbacher

This book examines claims for compensation for negligently-inflicted harm connected to an illegal act of the plaintiff. A variety of public policy and other grounds have been advanced for resolving these claims, resulting in an area that is characterised by confusing and contradictory doctrine. The book examines the illegality doctrine within a framework of corrective justice theory. The book argues that the only legitimate rationale for a doctrine of illegality is the legal policy of preserving the coherence of the legal system.

**Sharon Erbacher** is Senior Lecturer in Law at Deakin University, Australia.

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## Evidential Uncertainty in Causation in Negligence

Gemma Turton

This book undertakes an analysis of academic and judicial responses to the problem of evidential uncertainty in causation in negligence. It seeks to bring clarity to what has become a notoriously complex area by adopting a clear approach to the function of the doctrine of causation within a corrective justice-based account of negligence liability. It first explores basic causal models and issues of proof, including the role of statistical and epidemiological evidence, in order to isolate the problem of evidential uncertainty more precisely. The book explores the solution to a range of problems of evidential uncertainty, focusing on the Fairchild principle and the idea of risk as damage, as well as the notion of loss of a chance in medical negligence in an attempt to bring coherence to this area of the law.

**Gemma Turton** is a Lecturer in Law at the University of Leicester.

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Series: Hart Studies in Private Law

May 2016 | 9781849467049 | 264pp | Hbk  
RSP: £55

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## Private Law in the 21st Century

Edited by Kit Barker, Karen Fairweather and Ross Grantham

This book brings together a wide range of contributors from across the common law world to identify and debate the principal moral and systemic challenges that are likely to face private law in the remaining part of the twenty-first century. The various contributions identify serious problems relating to complexity and overload, threats to research and education, the law's unintelligibility, the unsatisfactory nature of the law reform process and a general lack of public engagement. They consider the respective future roles of statutes, codes, and judge-made law (in the form of both common law and equitable rules). They consider how best to organise the private law system internally, and how to co-ordinate it externally with other public and economic systems (human rights, regulation, insurance markets and social security frameworks). They address the challenges for private law presented by new forms technology, and by modern demands for the protection of new and intangible forms of moral interest, such as interests in privacy, 'vindication' and 'personal choice'. They also engage with the critical contemporary debates about access to, and the privatisation of, civil justice. The work will be an important source of inspiration and reference to private lawyers, as well as legislators, policy-makers and students.

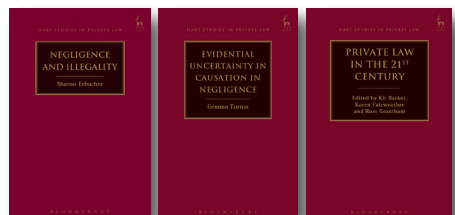
**Kit Barker** is Professor of Law, **Karen Fairweather** is Associate Lecturer in Law and **Ross Grantham** is Professor of Law, all at the TC Beirne School of Law, The University of Queensland.

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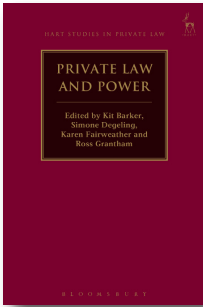
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## Private Law and Power

Edited by Kit Barker, Simone Degeling,  
Karen Fairweather and Ross Grantham

This aim of this edited collection is to examine the relationship between private law and power – both the public power of the state and the ‘private’ power of institutions and individuals. Its objectives are to describe and critically assess the way that private law doctrines, institutions, processes and rules express, moderate, facilitate and control relationships of power. The aim is to scrutinise this subject from the viewpoints of both history and modernity.

The various chapters of this work examine the dynamics of the relationship between private law and power from a number of different perspectives – historical, theoretical, doctrinal and comparative. They have been commissioned from leading experts in the field of private law, from several different Commonwealth Jurisdictions.

**Kit Barker** is Professor of Private Law, **Karen Fairweather** is an Associate Lecturer in Law and **Ross Grantham** is Professor of Commercial Law, all at the University of Queensland.  
**Simone Degeling** is Professor of Law at the UNSW.

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Series: Hart Studies in Private Law

Jan 2017 | 9781509905997 | 320pp | Hbk | RSP: £75

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## Causation in Negligence

*Sarah Green*

The principal objective of this book is simple: to provide a timely and effective means of navigating the current maze of case law on causation, in order that the solutions to causal problems might more easily be reached and the law relating to them more easily understood. The need for this has been increasingly evident in recent judgments dealing with causal issues: in particular, it seems to be ever harder to distinguish between the different ‘categories’ of causation and, consequently, to identify the legal test to be applied on any given set of facts. *Causation in Negligence* will make such identification easier, both by clarifying the parameters of each category and mapping the current key cases accordingly, and by providing one basic means of analysis which will make the resolution of even the thorniest of causal issues a straightforward process. The causal inquiry in negligence seems to have become a highly complicated and confused area of the law. As this book demonstrates, this is unnecessary and easily remedied.

**Sarah Green** is an Associate Professor at the University of Oxford.

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Series: Hart Studies in Private Law

Dec 2016 | 9781509905034 | 216pp | New in Pbk  
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## A Theory of Tort Liability

*Allan Beever*

This book provides a comprehensive theory of the rights upon which tort law is based and the liability that flows from violating those rights. Inspired by the account of private law contained in Immanuel Kant’s *Metaphysics of Morals*, the book shows that Kant’s theory elucidates a conception of interpersonal wrongdoing that illuminates the operation of tort law. The book then utilises this conception, applying it to the various areas of tort law, in order to develop an understanding of the particular areas in question and, just as importantly, their relationship to each other. It argues that there are three general kinds of liability found in the law of tort: liability for putting another or another’s property to one’s purposes directly, liability for doing something to a third party that puts another or another’s property to one’s purposes, and liability for pursuing purposes in a way that improperly interferes with the ability of another to pursue her legitimate purposes. The result is a coherent, philosophical understanding of the structure of tort liability as an entire system.

**Allan Beever** is Professor of Law at Auckland University of Technology.

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Series: Hart Studies in Private Law

Aug 2016 | 9781509903184 | 272pp | Hbk  
RSP: £55

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## Tort Law Defences

*James Goudkamp*

The law of torts recognises many defences to liability. While some of these defences have been explored in detail, scant attention has been given to the theoretical foundations of defences generally. In particular, no serious attempt has been made to explain how defences relate to each other or to the torts to which they pertain. The goal of this book is to reduce the size of this substantial gap in our understanding of tort law. The principal way in which it attempts to do so is by developing a taxonomy of defences. The book shows that much can be learned about a given defence from the way in which it is classified.

This new paperback edition contains a substantial preface in which the author responds to critics.

**James Goudkamp** is a Fellow of Keble College, Oxford, and an Associate Professor in the Oxford Law Faculty.

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Series: Hart Studies in Private Law

Jun 2016 | 9781509905027 | 288pp | New in Pbk  
RSP: £30

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## Contractual Indemnities

*Wayne Courtney*

Promises of indemnity are found in many kinds of commercial contracts, not just contracts of insurance. This book examines the nature and effect of contractual indemnities outside the insurance context. It is the first work to provide a detailed account of the subject in English law.

The book presents a coherent theory of the promise of indemnity while also addressing important practical issues, such as the construction of contractual indemnities. The subject is approached from two perspectives. The foundations are laid by examining general principles applicable to indemnities in various forms. The approach then moves from the general to the specific, by examining separately particular forms of indemnity. The book states English law but it draws upon a considerable amount of material from other common law jurisdictions.

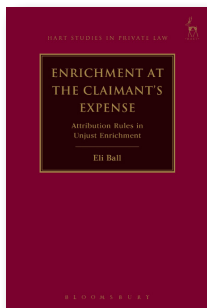
**Wayne Courtney** is an Associate Professor in the Faculty of Law at the University of Sydney.

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Series: Hart Studies in Private Law

Dec 2015 | 9781509905010 | 368pp | New in Pbk  
RSP: £35

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## Enrichment at the Claimant's Expense

Attribution Rules in Unjust Enrichment

*Eli Ball*

This book presents an account of attribution in unjust enrichment. Attribution refers to how and when two parties – a claimant and a defendant – are relevantly connected to each other for unjust enrichment purposes. It is reflected in the familiar expression that a defendant be ‘enriched at the claimant’s expense’. This book presents a structured account of attribution, consisting of two requirements: first, the identification of an enrichment to the defendant and a loss to the claimant; and, secondly, the identification of a connection between that enrichment and that loss. These two requirements must be kept separate from other considerations often subsumed within the expression ‘enrichment at the claimant’s expense’ which in truth have nothing

to do with attribution, and which instead qualify unjust enrichment liability for reasons that should be analysed in their own terms. The structure of attribution so presented fits a normative account of unjust enrichment based upon each party’s exchange capacities. A defendant is enriched when he receives something that he has not paid for under prevailing market conditions, while a claimant suffers a loss when he loses the opportunity to charge for something under the same conditions. A counterfactual test – asking whether enrichment and loss arise ‘but for’ each other – provides the best generalisation for testing whether enrichment and loss are connected, thereby satisfying the requirements of attribution in unjust enrichment.

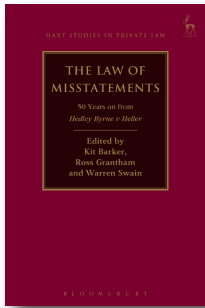
**Eli Ball** is a Solicitor at Ashurst Australia, Sydney.

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Series: Hart Studies in Private Law

Dec 2016 | 9781782258391 | 240pp | Hbk | RSP: £60

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## The Law of Misstatements

50 Years on from *Hedley Byrne v Heller*

Edited by Kit Barker, Ross Grantham and Warren Swain

2013 was the 50th anniversary of the House of Lords' landmark decision in *Hedley Byrne v Heller*. This international collection of essays brings together leading experts from five of the most important jurisdictions in which the case has been received (the United Kingdom, the United States, New Zealand, Canada and Australia) to reappraise its implications from a number of complementary perspectives—historical, theoretical, conceptual, doctrinal and comparative. It explores modern developments in the law of misstatement in each of the jurisdictions; examines the case's profound effects on the conceptual apparatus of the law of negligence more generally; explores the intersections between misstatement liabilities in contract,

tort, equity and under statutory consumer protection provisions; and critically assesses the ways in which advisor liabilities have come to be limited and distributed under systems of 'joint and several' and 'proportionate' liability respectively. Inspired by *Hedley Byrne*, the purpose of the collection is to reflect on the case's echoes, effects and analogues throughout the private law and to provide a platform for thinking about the ways in which liabilities for misstatement and pure economic loss should be modelled in the modern day.

**Kit Barker** is Professor of Law and **Ross Grantham** is Professor of Commercial Law, both at the University of Queensland. **Warren Swain** is Professor, Faculty of Law, University of Auckland.

Series: Hart Studies in Private Law

Aug 2015 | 9781849468633 | 408pp | Hbk | RSP: £65

## Money Awards in Contract Law

David Winterton

The quantification of contractual money awards is a topic of both significant theoretical interest and immense practical importance. Recent debates have ranged from the availability of gain-based relief to the basis for principles of remoteness and mitigation. While these and other important issues, such as the recovery of damages for non-pecuniary loss, are touched upon, the book's principal objective is to challenge the conventional interpretation of the principle generally acknowledged to govern this area of the law, which Parke B famously laid down in *Robinson v Harman*. After challenging this orthodoxy, Dr Winterton proposes a new understanding of the *Robinson v Harman* principle, which draws an important distinction between money awards that substitute for the performance promised and money awards that aim to make good certain detrimental factual consequences that can be attributed to a promisor's breach.

**David Winterton** is a Lecturer in Law at the University of New South Wales.

Series: Hart Studies in Private Law

Jun 2015 | 9781849464574 | 368pp | Hbk  
RSP: £50

## Accessory Liability

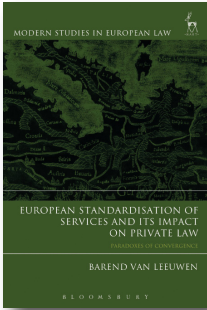
Paul S Davies

Accessory liability in the private law is of great importance. Claimants often bring claims against third parties who participate in wrongs but the law in this area has not received the attention it deserves. The criminal law recognises that any person who 'aids, abets, counsels or procures' any offence can be punished as an accessory, but the private law is more fragmented. One reason for this is a tendency to compartmentalise the law of obligations into discrete subjects, such as contract, trusts, tort and intellectual property. This book suggests that by looking across such boundaries in the private law, the nature and principles of accessory liability can be better understood and doctrinal confusion regarding the elements of liability, defences and remedies resolved.

**Paul S Davies** is an Associate Professor in Law at the University of Oxford.

Series: Hart Studies in Private Law

Feb 2015 | 9781849462877 | 328pp | Hbk  
RSP: £58



## European Standardisation of Services and its Impact on Private Law

Paradoxes of Convergence  
*Barend van Leeuwen*

This book analyses the interaction

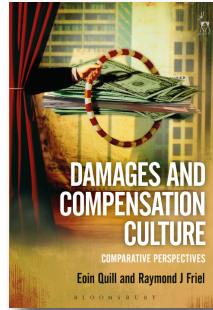
between European standardisation of the free movement of services and private law. Its starting point is an investigation into the ability of European standardisation of services to increase convergence in private law – allowing the private law orders of the Member States to be more closely aligned through European standardisation. However, it argues that there are some serious difficulties with both the relationship between European standardisation and services, and the relationship between standardisation and private law. This can be attributed to two paradoxes of convergence. First, it seems that while the European Commission would like European standardisation of services to develop in such a way that it can really contribute to the improvement of the internal market for services, it has not taken steps to control it or guarantee that any such standardisation complies with free movement law. Second, while stakeholders would like to apply European standards in private law, it would appear that they are less worried about the requirements that are imposed by private law before European standards can successfully be applied. It is not until these paradoxes are resolved that the aspiration of convergence in private law through European standardisation might become a reality.

**Barend van Leeuwen** is lecturer in law at Groningen University.

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Mar 2017 | 9781509908332 | 240pp | Hbk  
RSP: £60

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## Damages and Compensation Culture

Comparative Perspectives  
*Edited by Eoin Quill and Raymond J Friel*

The focus of the essays in this book is on the relationship

between compensation culture, social values and tort damages for personal injuries. A central concern of the public and political perception of personal injuries claims is the high cost of tort claims to society, reflected in insurance premiums, often accompanied by an assumption that tort law and practice is flawed and improperly raising such costs. The aims of this collection are to first clarify the relationship between tort damages for personal injuries and the social values that the law seeks to reflect and to balance, then to critically assess tort reforms, including both proposals for reform and actual implemented reforms, in light of how they advance or hinder those values. Reforms of substantive and procedural law in respect of personal injury damages are analysed, with perspectives from England and Wales, Canada, Australia, Ireland and continental Europe. The essays offer valuable insights to anyone interested in the reform of tort law or the tort process in respect of personal injuries.

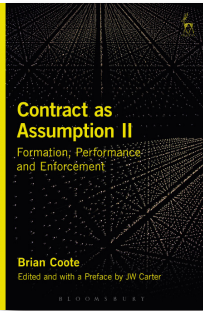
**Eoin Quill** is a Senior Lecturer in the School of Law at the University of Limerick and a fellow of the European Centre of Tort and Insurance Law (ECTIL) in Vienna.

**Raymond J Friel** is a Senior Lecturer and Director of the International Commercial and Economic Law Group in the School of Law at the University of Limerick.

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Nov 2016 | 9781849467971 | 336pp | Hbk  
RSP: £75

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## Contract as Assumption II

Formation, Performance and Enforcement

*Brian Coote*

*Edited by*

*JW Carter*

This second collection of Brian Coote's previously published writings

is for the most part a follow-up to his *Contract as Assumption* (Hart Publishing, 2010). Part of the theme of that collection was that in a bilateral contract the obligations of the parties, both primary and secondary, are those which at formation they have each assumed, that is, have taken upon themselves. Being exchanged at the point of formation, these assumptions constitute the consideration. The institution of contract provides a facility the purpose of which is to enable the parties thereby to bind themselves to legal (contractual) obligation.

This emphasis on what happens at formation has prompted the inclusion of several of the papers in this collection. These focus on intention, offer and acceptance, the qualification of primary and secondary obligations whether express or implied, agency, and the effect of illegality on pre-existing rights. Falling outside this group are two pieces respectively on chance and the burden of proof and on impecuniosity, in each case in tort as well as in contract.

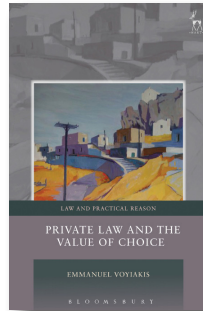
The collection ends with the author's valedictory lecture, "Contract – an Underview". In this paper, delivered on his retirement from the University of Auckland, he summed up his thinking on Contract. It is now for the first time given general currency.

**Brian Coote**, CBE, FNZAH, FRSNZ is an Emeritus Professor and sometime Dean of Law at the University of Auckland, and has published widely on Contract topics.

**JW Carter** is Emeritus Professor of Law in Sydney Law School at the University of Sydney, and Consultant at the international law firm Herbert Smith Freehills.

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Apr 2016 | 9781782256687 | 272pp | Hbk  
RSP: £55



## Private Law and the Value of Choice

*Emmanuel Voyiakis*

Some argue that we should think about private law in terms of rights and wrongs. Others argue that we should think about it in terms of

social costs. This book proposes that we should think about private law in terms of substantive responsibilities, ie to focus on justifying the practical burdens that private law requires people to bear in the context of agreements, accidents and so on. This way of thinking has three distinct advantages. First, it makes it easier to understand the claims of various accounts of private law as rival claims about the same thing, namely the burdens or duties that agents may be required to bear in the context of an agreement or an accident. Second, it allows us to use some ideas about responsibility, especially the idea that we have reason to want our responsibilities to depend on how we respond in situations of choice, as an independent measure for assessing the moral merits of those rival claims. Third, it gives us an intuitive way of thinking about the normative significance of certain considerations, such as the distributive effects of private law principles, and the effect of rational biases on how agents respond in situations of choice. The first part of the book lays out an account of 'substantive responsibility' for private law. The second part applies that account to certain controversial areas of the law of contract and tort: unconscionability, liability for risk-creation and strict liability.

**Emmanuel Voyiakis** is a law lecturer at the London School of Economics and Political Science.

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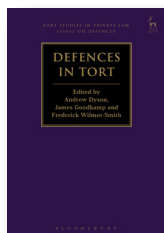
Dec 2016 | 9781841138862 | 272pp | Hbk  
RSP: £65

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# HART STUDIES IN PRIVATE LAW: ESSAYS ON DEFENCES

*Series Editors: Andrew Dyson,  
James Goudkamp and Frederick Wilmot-Smith*

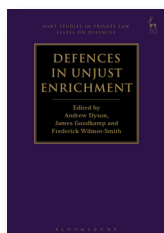
This series offers a systematic treatment of defences in private law as a connected field. Its aim is to contribute to this theoretically challenging and practically important, yet understudied, area of the law. The essays that constitute each of the collections in this series are written by some of the world's leading judges and scholars. They bring together insights from several jurisdictions, including civilian jurisdictions. The series is of value to academics and practitioners alike.



## Defences in Tort

This book is the first in a series of essay collections on defences in private law. It addresses defences to liability arising in tort. The essays range from those adopting a primarily doctrinal approach to others that examine the law from a more theoretical or historical perspective. Some essays focus on individual defences, while some are concerned with the links between defences, or with how defences relate to the structure of tort law as a whole. A number of the essays also draw upon concepts and literature that have been developed mainly in relation to the criminal law, and consider their application to tort law. The essays make several original contributions to this complex, important but neglected field of academic enquiry.

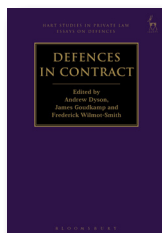
Series: Hart Studies in Private Law: Essays on Defences  
Feb 2015 | 9781849465267 | 376pp | Hbk | RSP: £75



## Defences in Unjust Enrichment

This book addresses defences to liability arising in unjust enrichment. The essays are written from a range of perspectives and methodologies. Some are doctrinal, others are theoretical, and several offer comparative insights. The most important defence in this area of the law, change of position, is addressed in detail, but many other defences are treated too, as well as the interrelations between these defences within the law of unjust enrichment.

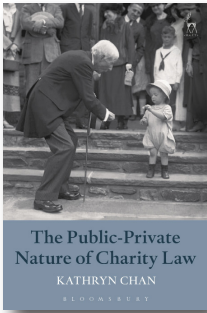
Series: Hart Studies in Private Law: Essays on Defences  
Jan 2016 | 9781849467254 | 360pp | Hbk | RSP: £75



## Defences in Contract

This book addresses defences to liability arising in contract. The essays range from those adopting a predominantly black-letter approach to others that examine the law from a more theoretical or historical perspective. Some essays focus on individual defences, while some are concerned with the links between defences, or with how defences relate to the structure of contract law generally. One goal of the book is to determine what light can be shed on contract law doctrines by analysing them through the lens of defences. The contributors are all leading jurists and the essays address all of the major common law jurisdictions.

Series: Hart Studies in Private Law: Essays on Defences  
February 2017 | 9781849467230 | 452pp | Hbk | RSP: £75



## The Public-Private Nature of Charity Law

*Kathryn Chan*

Is charity law a 'private law' or a 'public law' subject? This book maps charity law's relationship to the public law-private law divide, arguing that charity law is best understood as

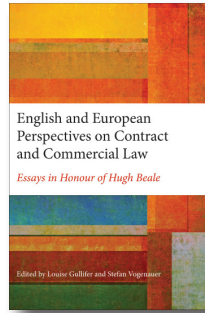
a hybrid (public-private) legal tradition that is constantly seeking to maintain an equilibrium between the protection of the autonomy of property-owning individuals to direct and control their wealth, and the furtherance of competing public visions of the good. Of interest to scholars and charity lawyers alike, *The Public-Private Nature of Charity Law* applies its unique lens both to traditional topics such as the public benefit rule and charity law's rules of standing, and to more contemporary issues such as the co-optation of charitable resources by threatened welfare states and the emergence of social enterprise.

**Kathryn Chan** is Assistant Professor of Law at the University of Victoria, Canada.

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Nov 2016 | 9781782258483 | 224pp | Hbk  
RSP: £55

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## English and European Perspectives on Contract and Commercial Law

Essays in Honour of Hugh Beale  
*Edited by Louise Gullifer and Stefan Vogenauer*

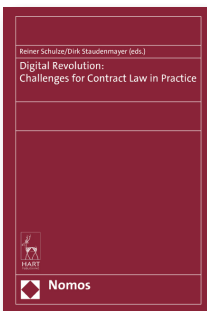
The purpose of this book is to honour the influential and wide-ranging work of Professor Hugh Beale. It contains essays by twenty-five very distinguished authors, each of whom has worked with Professor Beale. The essays reflect different aspects of Professor Beale's interests. Some concentrate on English contract law, either from a historical or a current perspective, while others are focused on aspects of European contract law. There are 4 essays looking at current issues relating to security and financing, and, as befits a former Law Commissioner, 3 essays on law reform. The essays in the final section discuss trends in transnational and European commercial law.

**Louise Gullifer** is Professor of Commercial Law and **Stefan Vogenauer** is Linklaters Professor of Comparative Law, both at the University of Oxford.

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Jan 2017 | 9781509912971 | 540pp | New in Pbk  
RSP: £32.99

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## Digital Revolution

Challenges for Contract Law in Practice  
*Edited by Reiner Schulze and Dirk Staudenmayer*

The creation of a single digital single market is one of the key objectives of the European Commission. This work deals with the challenges for European contract law in the areas of 3D printing, sharing economy and Internet of Things.

**Reiner Schulze** is Professor at Westfälische Wilhelms Universität Münster. **Dirk Staudenmayer** is the Head of the Unit Contract Law, DG Justice, European Commission.

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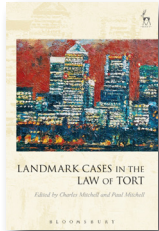
Feb 2016 | 9781509907335 | 304pp | Hbk  
RSP: £75

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# LANDMARK CASES SERIES

*Series Editor: Paul Mitchell*

The *Landmark Cases* series is an occasional series of volumes which seek to highlight the historical antecedents of what are widely considered to be the leading cases in the common law. These edited volumes feature original archival research by eminent scholars in the field, and are intended to provide a context, or contexts, in which to better understand how and why certain cases came to be regarded as the 'Landmark' cases in any given field.



## **Landmark Cases in the Law of Tort**

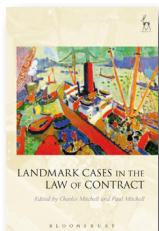
*Edited by Charles Mitchell and Paul Mitchell*

This book contains original essays on leading tort cases, ranging from the early nineteenth century to the present day. The cases examined raise a broad range of important issues across the law of tort, including such diverse areas as acts of state and public nuisance, as well as central questions relating to the tort of negligence. Several of the essays place cases in their historical context in ways that change our understanding of the case's significance. Sometimes the focus is on drawing out previously neglected aspects of cases which have been – undeservedly – assigned minor importance. Other essays explore the judicial methodologies and techniques that worked to shape leading principles of tort law.

**Charles Mitchell** and **Paul Mitchell** are professors of law at University College London.

Series: [Landmark Cases](#)

Jan 2016 | 9781509905072 | 408pp | New in Pbk | RSP: £35



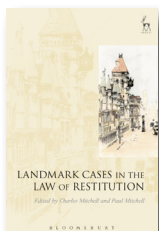
## **Landmark Cases in the Law of Contract**

*Edited by Charles Mitchell and Paul Mitchell*

This book offers original essays by leading contract scholars. As with the essays in the companion volumes in this series, each essay takes as its focus a particular leading case, and analyses that case in its historical or theoretical context. The cases range from the early eighteenth- to the late twentieth-centuries, and deal with an array of contractual doctrines. The book also explores several common themes which are fundamental to the development of the law of contract: for instance, the influence of commercial expectations, appeals to 'reason' and the significance of particular judicial ideologies and techniques.

Series: [Landmark Cases](#)

Jan 2016 | 9781509905041 | 392pp | New in Pbk | RSP: £35



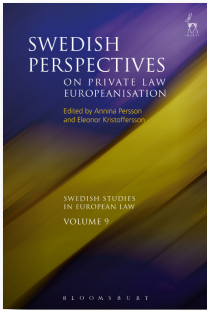
## **Landmark Cases in the Law of Restitution**

*Edited by Charles Mitchell and Paul Mitchell*

It is now well established that the law of unjust enrichment forms an important and distinctive part of the English law of obligations. Restitutionary awards for unjust enrichment and for wrongdoing are clearly recognised for what they are. But prior to the last decade of the twentieth century the very existence of a separate law of unjust enrichment was controversial, its scope and content matters of dispute. In this collection of essays, a group of leading scholars reappraise some of the landmark cases in the area. Their investigations shed new light on some classic decisions, and persuasively invite readers to think again about some well-known authorities.

Series: [Landmark Cases](#)

Jan 2016 | 9781509905065 | 416pp | New in Pbk | RSP: £35



**Swedish Perspectives on Private Law Europeanisation**  
*Edited by Annina H Persson and Eleonor Kristoffersson*

As part of the European integration, an ambitious

programme of harmonisation of European private law is taking place. This new edition in the *Swedish Studies in European Law* series, the work of both legal scholars and politicians, aims to create a modern codification in the tradition of the great continental codifications such as the BGB and the Code Civil. A significant step towards this development was taken in 2009 with the creation of the Draft Common Frame of Reference which contains model rules for a large part of central private law.

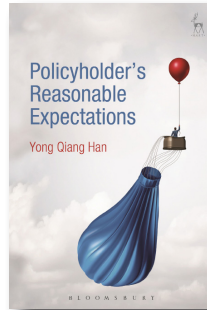
The process raises a number of questions. What are the advantages and disadvantages of such an intensive process of harmonisation? Are there lessons to be learnt from the Europeanisation of private law through history? Are there any further steps which have been taken in order to create a European private law? What is the future of European private law? These crucial questions were discussed at a conference in Stockholm, sponsored by the Swedish Network of European Legal Studies. This important volume includes the answers offered by leading scholars in the field.

**Annina H Persson** is Professor in Private Law and **Eleonor Kristoffersson** is Professor in Tax Law, both at Örebro University, Sweden.

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Dec 2017 | 9781849466974 | 176pp | Hbk  
RSP: £55

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**Policyholder's Reasonable Expectations**  
*Yong Qiang Han*

Over the past two decades, protecting contractual parties' reasonable expectations has incrementally gained judicial recognition in English contract law. In contrast, however,

the similar 'doctrine' of 'policyholder's reasonable expectations' has been largely rejected in English insurance law. This is injurious, firstly, to both the consumer and business policyholder's reasonable expectations of coverage of particular risks, and, secondly, to consumer policyholder's reasonable expectations of bonuses in with-profits life insurance. To remedy these problems, this book argues for an incremental but definite acceptance of the conception of policyholder's reasonable expectations in English insurance law. It firstly discusses the homogeneity between insurance law and contract law, as well as the role of (reasonable) expectations and their relevance to the emerging duty of good faith in contract law. Secondly, following a review and re-characterisation of the American insurance law 'doctrine' of reasonable expectations, the book addresses the conventional English objections to the reasonable expectations approach in insurance law. In passing, it also rethinks the approach to the protection of policyholder's reasonable expectations of bonuses in with-profits life insurance through a revisit to the (in) famous case *Equitable Life Assurance Society v Hyman* [2000] UKHL 39, particularly to its relevant business and regulatory background.

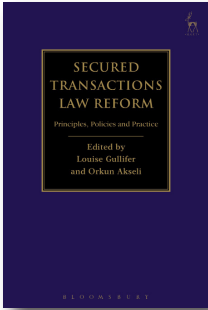
**Yong Qiang Han** is a post-doctoral Research Fellow at the Centre for Banking and Finance Law, Faculty of Law, of the National University of Singapore.

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Nov 2016 | 9781509900763 | 280pp | Hbk  
RSP: £70

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## Secured Transactions Law Reform

Principles, Policies and Practice

*Edited by Louise Gullifer and Orkun Akseli*

Secured transactions law has been subjected to a close scrutiny over the last

two decades. One of the main reasons for this is the importance of availability of credit and the consequent need to reform collateral laws in order to improve access to finance. The ability to give security effectively influences not only the cost of credit but also, in some cases, whether credit will be available at all. This requires rules that are transparent and readily accessible to non-lawyers as well as rules that recognise the needs of small and medium-sized enterprises.

This book critically engages with the challenges posed by inefficient secured credit laws. It offers a comparative analysis of the reasons and the needs for a secured transactions law reform, as well as discussion of the steps taken in many common law, civil law and mixed law jurisdictions.

The book, written under the auspices of the Secured Transactions Law Reform Project, informs the debate about reform and advances novel arguments written by world renowned experts that will build upon the existing literature, and as such will be of interest to academics, legal practitioners and the judiciary involved in secured transactions law around the world.

The text considers reform initiatives that have taken place up to the end of April 2016. It has not been possible to incorporate events since then into the discussion. However, notable developments include the banks decree passed by the Italian Government on 29th June 2016, and the adoption of the Model Law on Secured Transactions by UNCITRAL on 1st July 2016.

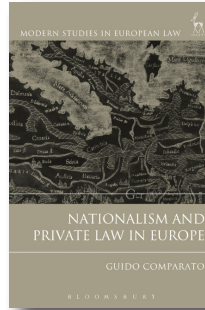
**Louise Gullifer** is Professor of Commercial Law at the University of Oxford.

**Orkun Akseli** is Senior Lecturer in Commercial Law at Durham University.

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Oct 2016 | 9781849467438 | 600pp | Hbk  
RSP: £70

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## Nationalism and Private Law in Europe

*Guido Comparato*

While the internationalisation of society has stimulated the emergence of common legal frameworks to coordinate transnational social

relations, private law itself is firmly rooted in national law. European integration processes have altered this state of affairs to a limited degree with a few, albeit groundbreaking, interventions that have tended to engender resistance from various actors within European nation-states. Against that background, this book takes as its point of departure the need to understand the process of legal denationalisation within broader political frameworks. In particular it seeks to make sense of opposition to Europeanisation at this point in the evolution of European law when, despite growing nationalist attitudes, great efforts have been made to produce comprehensive legal instruments to synthesise general contract law - an area that has traditionally been solely within the ambit of nation-states. Combining insights from the disciplines of law, history and political science, the book investigates the conceptual and cultural associations between law and the nation-state, examines the impact of nationalist ideas in modern legal thought and reveals the nationalist underpinnings of some of the arguments employed against and, somewhat paradoxically, even in support of legal Europeanisation.

**Guido Comparato** is a postdoctoral researcher in the Law Department of the European University Institute.

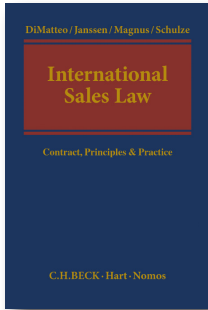
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Aug 2016 | 9781509907410 | 332pp | New in Pbk  
RSP: £30

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## International Sales Law

Contract, Principles & Practice

*Edited by*  
*Larry DiMatteo,*  
*André Janssen,*  
*Ulrich Magnus*  
*and Reiner Schulze*

This work represents a systematic and practical analysis of

the relevant rules, matter and terminology of international sales law. Written for practitioners as well as researchers and students the manual offers a comprehensive and in-depth overview of the relevant legal international and national regulations, taking into account the practice-relevant topics and the relevant soft law regulations.

The international and comparative law character of the work is reflected in the consideration of such international regulations such as the CISG, the Principles of European Private Law (PECL), the Principles of International Commercial Contracts (UNIDROIT principles) and the proposal to create a common European Sales law (GEK) from the year 2011. In addition, an overview of the differences in terms of the purchase option between common law and civil law jurisdictions and between each important national rights is offered.

**Larry DiMatteo** is Huber Hurst Professor of Contract Law & Legal Studies at University of Florida. **André Janssen** is a senior research fellow at the Centre for European Private (CEP) and the Centre of International Trade Law in Münster. **Ulrich Magnus** is judge at Higher Appeal Court. **Reiner Schulze** is professor for German and European civil law and Director at the Institute for International Sales Law, Münster.

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Aug 2016 | 9781509905652 | 800pp | Hbk  
RSP: £195

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## European Law on Unfair Commercial Practices and Contract Law

*Mateja Durovic*

The book examines the ambiguous relationship between the European law on unfair commercial practices and

contract law. In particular, the manuscript demonstrates that the Directive 2005/29/EC on unfair commercial practices (UCPD) has had a major impact on contract law, despite the declaration concerning the formal independence between the two branches of law established by Article 3(2) UCPD. The insights and conclusions identified in the book contribute to a better understanding of European private law and the general process of Europeanisation of private law in the European Union, and in particular of contract law.

**Mateja Durovic** is Assistant Professor at the School of Law of the City University of Hong Kong.

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Jul 2016 | 9781782258117 | 240pp | Hbk  
RSP: £55

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## European Contract Law

*Reiner Schulze and Fryderyk Zoll*

This book provides fundamental information about the content, methods and objectives of European legislation in the field of contract law and explains the interaction between the legislator, judges and academics during the creation of European contract law. It attempts to show how a system arises from the dialogue between the different sources. It therefore focusses not only on current EU legislation but also the extensive preparatory works in which the authors of this book were actively involved.

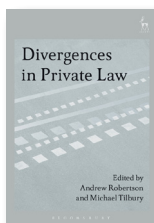
**Reiner Schulze** is Professor of German and European Civil Law at the University of Münster. **Fryderyk Zoll** is Professor of Polish and European Private Law at the University of Osnabrück.

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Jan 2016 | 9781509900428 | 300pp | Hbk  
RSP: £95

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*The chapters in these books were originally presented at the 7th Biennial Conference on the Law of Obligations held in Hong Kong in July 2014*

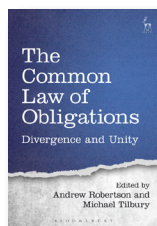


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