THELAWOF • TRUSTS''

SECOND EDITION

GERAINT THOMAS

BA (Wales), D.Phil (Oxon), Barrister (Inner Temple), Professor of Equity and Property Law at Queen Mary University of London

i ALASTAIR HUDSON

LLB, LLM, PhD (Lond), NTFSFRSA FHEA, Barrister (Lincoln'sInn), Professor of Equity and Law at Queen Mary University of London



CONTENTS—SUMMARY

About	the	Contrib	utors	,	"	xlvii
Table	of Ca.	ses .	k-		d ' ,	xlix
Tables	of	UK	Stati	utes		clxix
Table	of	UK	Statutory	Instr	uments	cxci
Table	of	Overseas	Legis	slation	,	cxcvii
Table	of	Interna	ational,	Legisl	ation	ccv
Table	of	Non-Statuto	ry A	Materials	,	ccix
List of	Abbreviations	and Acron	yms .			ccxi
List	of	Bibliogra	ohic	Abbreviat	ions	ccxiii
SECT	TION ONE: GI	ENERAL PRI				USTS
T4			TO.THE L	AW OF IR	US13	_
Introduction: The Scope of the Book						5
1. The N	lature of the Tr	ust				11
		B. EXPRESS	PRIVATE 7	ΓRUSTS		
2. The	Three Certaintie	es				43
3. Certai	inty of Subject-	Matter				69
4. Certai	inty of Objects					93
5. The	Constitution	of an Exp	ress Private	Trust •		111
6. Trus	ts for Non-Chari	table Purposes	: The Benefic	ciary Princip	le	137
7. The Nature of a Beneficiary's Interest						159
8. Trus	ts with Unlawful	Purposes: The	e Rules Again	st Perpetuiti	es.	
	nst Inalienability	-	0	-		187
_	sts and Insolvenc			•		231
). IIus	as and msorvene	J				231
	C. THE	DUTIES AN	D POWERS	OF TRUS	TEES "	
10. The	Duties of Truste	es: Part One				281
11. The Duties of Trustees: Part Two						331
12. Discl	losure of Inform	ation by Trust	ees			381
13. T	he.Powers of	Trustees:	Part One	- •		403
14. The	Powers of Truste	es: Part Two				417
15. Dele	egation by Trust	ees	•	•	-	457
16.	Powers	of	Revocation	•		487

Contents—Summary

17. Disclaimer, Release, and Extinguishment of Powers	497			
18. The Excessive Execution of a Power •				
19. Fraud on a Power ,				
20. The Judicial Review of the Exercise of Trustees'Discretions				
21. Rights of Trustees				
22;- Death; Retirement, Removal, and Appointment of Trustees				
23. Particular Trustees and Protectors				
24. Variation and Amendment of Trusts	675			
D, TRUSTS IMPLIED BY LAW				
25. An Introduction to Trusts Implied by Law	699			
26. Resulting Trusts , I				
27. Constructive Trusts in Response to Unconscionable Behaviour	775			
28. Constructive Trusts to Enforce Agreements	797			
29. Constructive Trusts in Response to Abuse of Fiduciary Position	829			
30. The Liability of Strangers to Account as Constructive Trustees	871			
E. BREACH OF TRUST				
31. Avoidance of Breach of Trust				
32. Trustees! Liability for Breach of Trust				
33. Tracing and Proprietary Claims	979			
SECTION TWO: SPECIFIC TRUSTS				
E. PRIVATE CLIENT TRUSTS'				
34. Private Client Trusts: Inheritance Tax				
35. Interest in Possession Trusts				
36. Trusts for Minors and Young Persons				
37. Discretionary Trusts	1049			
38. Disabled Trusts ,	1053			
39. Testamentary Trusts .	1059			
G. INTERNATIONAL TRUSTS				
40. Offshore Asset Protection Trusts	1073			
41. Offshore Purpose Trusts	1117			
42. The Cayman Islands' STAR Trust; The British Virgin Islands Special Trusts Act 2003	1159			
-				

Contents—Summary

43. International Trusts: Choice of Law			
44. Jurisdiction, Remedies, and the Recognition and Enforcement of Foreign Judgments	1227		
H. OCCUPATIONAL PENSION SCHEME TRUSTS			
45. Nature and Structure of Occupational Pension Scheme Trusts			
46. Trusteeship and Duties of Trustees of Occupational Pension			
Scheme Trusts .			
47. Legislation Affecting Benefits			
48. Amendment, Termination, and Underfunding of Occupational Pension Schemes			
I. TRUSTS IN FINANCIAL TRANSACTIONS			
49. Trustees in the Law of Finance			
50. Trusts of Financial Instruments and of Money •	1359		
51. Trusts Used to Take Security in Commercial Transactions	1369		
52. Trusts in Relation to Debt Securities	1391		
53. Unit Trusts .	1401		
54. Investment of Private Express Trusts	1417		
J. TRUSTS USED IN COMMERCIAL CONTEXTS			
55. Trusts which Conduct a Business	1459		
56. Fiduciary Liability in the Creation of Financial and			
Commercial Transactions	1471		
57. Trusts and the Termination of Contracts	1483		
K. TRUSTS OF LAND AND OF THE HOME			
58. Trusts of the Family Home	1493		
59. Trusts of Land	1543		
Index	1579		