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***Equity, the body of law
developed in the English***

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Court of Chancery, has a long and distinguished history. In the twenty-first century it continues to be an important regulator of both commercial and personal dealings, as well as

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***informing statutory
regulation. Although much
equitable doctrine is settled,
there remain some
intractable problems that
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this collection employ new historical, comparative and theoretical perspectives to cast light on these fault lines in equitable doctrine and methodology. Leading scholars and practitioners

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***from England, Australia and
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contentious topics as
personal and proprietary
liability for breaches of
equitable duties (including
fiduciary duties), the***

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creation of non-express trusts, equitable rights in insolvency, the fiduciary 'self dealing' rule, clogs on the equity of redemption, the distribution of assets on family breakdown, and the

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***suitability of unjust
enrichment analysis. The
authors address specific
doctrinal questions as well
as the 'meta' issues of
organisation and
methodology, and their***

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***findings will be of value to
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***on contract law, whether
published in articles or
journal chapters, or as
books. These writings, with
their full citation, are
gathered under familiar
contract law subject-***

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headings, and the most significant half of them are digested in a summary of a few lines each. The book aims to cover all writings published in the English language about the Common

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Law of contracts, and includes sections on contract theory and the history of contract law, as well as sections for the more traditional substantive topics (such as the

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***interpretation of contracts,
penalty clauses, remoteness
of damage and anticipatory
breach). This work should
prove an invaluable
resource for practitioners,
academics and students,***

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increasing awareness of important writings, and saving readers time by familiarising them with the work that has already been done in their particular fields.

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***This comprehensive yet
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Handbook offers an expert
guide to the key concepts,
principles and debates in
the modern law of unjust
enrichment and restitution.***

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***Remedies for International
Sellers of Goods Vol 1+2 is a
required work for all of
those involved in
international sales. The
work includes coverage of
56 countries in North and***

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***including coverage of the
Uniform Law on the
International Sales of Goods,
and an overview of the
various types of letter of
credit agreements
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cross-border sales. The work also contains the rules applicable to letter of credit arrangements, international standard contract clauses, the steps required to assure secured sales transactions,

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***and the remedies available
to those involved in disputes
over the cross-border sale of
goods. Analysis and
discussion also includes the
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***Contracts, the Uniform Law
on the International Sale of
Goods, and the Uniform Law
on the Formation of
Contracts for the
International Sale of Goods.
Put quite simply, Remedies***

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***for International Sellers of
Goods is a work that anyone
involved with international
sales transaction cannot do
without.***

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***Research Handbook on
Unjust Enrichment and
Restitution
The Construction of
Commercial Contracts
The Law of Restitution in
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Fault Lines in Equity

***This book brings together
a wide range of
contributors from across
the common law world to
identify and debate the
principal moral and***

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***systemic challenges
facing private law in the
remaining part of the
twenty-first century. The
various contributions
identify serious problems
relating to complexity and***

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***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***

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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

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***organise the private law
system internally, and
how to co-ordinate it
externally with other
public and economic
systems (human rights,
regulation, insurance***

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markets and social security frameworks). They address the challenges for private law presented by new forms of technology, and by modern demands for the

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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

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***debates about access to,
and the privatisation of,
civil justice. The work is
designed as a source of
inspiration and reference
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***and banking law to
discuss major issues.
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Australia contains a
comprehensive summary
and analysis of the case
and statute law on unjust***

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***enrichment in Australia.
It is presented in a way
which is designed to be
easily accessible for
students and
practitioners who are not
familiar with the area and***

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***it engages in discussion
of many of the immensely
difficult issues of theory
that lie beneath the
surface in this area of
rapidly developing law.
This book is the first***

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***casebook on restitution
law to be published in
Australia. It contains
comprehensive extracts
from the most significant
Australian and English
cases, together with some***

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***Canadian cases which
indicate the possible
direction which
Australian law will take.
The author has included
substantial commentaries
following the extracts, in***

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***order to further explain
the decisions from
overseas jurisdictions, to
place those decisions in
an Australian context. In
the last decade, there has
been a significant number***

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***of Australian decisions
which deal with important
concepts in restitution,
and which supplement,
qualify or refine the
English law of restitution.
The focus in this book on***

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***the Australian position
makes it an invaluable
resource for anyone who
is studying or researching
restitution law in
Australia.***

The Varieties of

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Restitution

***Private Law in the 21st
Century***

Exploring Private Law

***Chitty on Contracts, 31st
edition volumes 1 & 2***

The Restatement Third:

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***Restitution and Unjust
Enrichment***

***Inspired by recent debate, the
purpose of this collection of
essays on private law doctrines,
remedies and methods is to
celebrate and illustrate the***

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contribution that both 'top-down' and 'bottom-up' methods of reasoning make to the development of private law. The contributors explore a variety of topical subjects, including judicial approaches to 'top-down'

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***and 'bottom-up' methods;
teaching trusts law; the
protection of privacy in private
law; the development of the law
of unjust enrichment; the private
law consequences of theft;
equity's jurisdiction to relieve***

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against forfeiture; the nature of fiduciary relationships and obligations; the duties of trustees; compensation and disgorgement remedies; partial rescission; the role of unconscionability in proprietary

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***estoppel; and the nature of
registered title to land.***

***This highly-praised textbook
provides detailed and incisive
coverage of all aspects of
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be invaluable to both students and practitioners with an interest in this area of law.

Restitution is one of the law's few remaining commons, largely untouched by statute. Fifty years ago restitution was a wilderness,

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an apparent 'miscellany of disparate categories' through which litigant, judge and student trudged holding a compass marked 'implied contract' at its four points. However, the landscape of the modern

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Australian law of restitution is complex. The topic of restitution addressed by the authors includes doctrines responding to different and/or additional policies as well as gain-based remedies appurtenant to wrongs

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***with their juridical source
outside unjust enrichment, which
is only one of the bases for
restitution. Several chapters
have been extensively rewritten
and the third 'Want of Title:
Misdirected Funds and Tracing'***

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is new to this edition. This book is essential reading for members of the judiciary, barristers and solicitors Australia wide, as well as students of commercial law, equity and remedies. Comments from reviewers of the first

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edition: 'An excellent, accessible account of the modern law of restitution in Australia which will prove to be of enormous benefit to practitioners in Australia and which can be read with profit by all lawyers with an interest in this

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***fascinating subject' [(1996) 112
Law Quarterly Review 691]. 'A
detailed masterly exposition,
with meticulous cross-
referencing' ([1996] Restitution
Law Review 147). Important
Feature: Authoritative, scholarly***

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***and comprehensive--written by
pre-eminent authors***

***Healthcare professionals face an
increasing threat of litigation
from parties whom they have
never met in their daily medical
practice and who look nothing***

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like the traditional patient. The so-called 'non-patient' may take many forms"for example, a person who is injured or killed by a mentally-ill, physically-disabled or diseased patient; a wrongfully-accused parent in a child

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neglect/abuse case; or a local authority which is put to the expense of caring for a negligently-treated patient. This book explores the legal principles and conundrums which arise when determining a

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healthcare professional's liability in negligence towards a wide variety of non-patients. The topic is assuming increasing legal importance and relevance, given the potential for many non-patient claims to give rise to

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class actions litigation, and in light of the legislative and human rights interventions, and the frequent appellate judicial consideration, which non-patient claims have attracted in recent times. The aim of the book is to

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have utility for both legal and medical professionals; for academics and students of comparative medical negligence and tort law; and for law reformers who may be interested in adopting certain features of

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statutory models elsewhere which pertain to some non-patient claims, such as those based upon 'Good Samaritan' conduct. Important parallels or counterpoints from other common law jurisdictions, in

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which courts and commentators have grappled with the legal complexities of non-patient claims, are also discussed and critically analyzed.

Remedies for International Sellers of Goods - Second

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Edition

Understanding Unjust

Enrichment

***Remedies in Australian Private
Law***

Restitution Law in Australia

Carter's Breach of Contract

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The third edition of The Principles of the Law of Restitution brings this widely cited and influential volume fully up to date. It has been substantially rewritten to reflect the significant changes in the law of restitution and the expansion in the theoretical and critical commentary on the subject.

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Following important decisions of the Supreme Court and other courts, large-scale changes have been made to the chapters on enrichment, at the expense of the claimant, mistake, claims against public authorities, and change of position. Additionally, this edition contains a new chapter on the

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operation of juridical bars on restitutionary claims. References to developments in other jurisdictions have been expanded for this edition, reflecting the significance of these changes and how they assist in the interpretation of English law and provide a basis for criticising that law.

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Further, in the light of leading cases and the contributions of restitutionary scholars around the world, the author's views on specific controversial debates about the ambit, function, and interpretation of the subject have changed, sometimes radically. One significant aspect of the book remains

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unchanged: the book continues to focus on the identification and analysis of the principles which underpin the law of restitution as a whole, but with reference to its three distinct parts: unjust enrichment, restitution for wrongs, and the vindication of property rights. This approach provides the

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reader with a peerless guide to the law of restitution.

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

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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

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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

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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

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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

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enrichment and loss are connected, thereby satisfying the requirements of attribution in unjust enrichment.

This book defends the view that an award of an account of profits (or 'disgorgement damages') for breach of contract will sometimes be justifiable, and fits within the orthodox principles

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and cases in contract law. However there is some confusion as to when such an award should be made. The moral bases for disgorgement damages are deterrence and punishment, which shape the remedy in important ways. Courts are also concerned with vindication of the

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claimant's performance interest, and it is pivotal in these cases that the claimant cannot procure a substitute performance via an award of damages or specific relief. The book argues that disgorgement damages should be available in two categories of case: 'second sale' cases, where the

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defendant breaches his contract with the claimant to make a more profitable contract with a third party; and 'agency problem' cases, where the defendant promises the claimant he will not do a certain thing, and the claimant finds it difficult to supervise the performance. Moreover, disgorgement may be full or

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partial, and 'reasonable fee damages' for breach of contract are best understood as partial disgorgement rather than 'restitutionary damages'. Equitable bars to relief should also be adopted in relation to disgorgement damages, as should allowances for skill and effort. This book will be of

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interest to contract and commercial lawyers, and will be especially valuable to anyone with an interest in contract remedies and restitution. It draws on case law in a number of common law jurisdictions, primarily England and Wales, and Australia. Over the past decade, the High Court

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has repeatedly rejected the notion that there is a unifying principle of unjust enrichment at the plaintiff's expense, in contrast to the position in the UK. This book provides a vigorous and sustained justification for the Australian position, and demonstrates that the law in the UK has generated

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more fictions than it was ever thought to abolish. The law of restitution is shown to comprise several fundamentally distinct legal concepts which fill gaps in the law of contract and tort, and which have nothing in common beyond the historical accident that they arose out of the

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action of indebitatus assumpsit. These are (i) the recovery of non-voluntary payments (by mistake, duress, undue influence, unconscionable dealing and total failure of consideration); (ii) remuneration for goods or services requested by the defendant in circumstances indicating a promise to

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pay for them; and (iii) the protection of certain facilitative institutions of private law (such as private property and fiduciary relationships). The book staunchly defends the traditional common law approach of analysing legal principles by the empirical method of treating like cases alike,

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rather than by derivation from supposedly unifying theories. This edition updates the first edition, which was published in 1998, in the light of almost 20 years of case-law and academic debate. It also adds a separate chapter dealing with the history of the law of restitution and why

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it matters.

Accounting for Profit for Breach of
Contract

Theory and Practice

Contract Law

Enrichment at the Claimant's Expense

Unjust Enrichment

The publication of the Restatement

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Third: Unjust Enrichment and Restitution by the American Law Institute in July 2010 was an event of major importance, not only for the development of the law of unjust enrichment in the US, but also for global scholarship relating to this area

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of private law. The Restatement First appeared in 1937, and the Restatement Second was abandoned; hence the Restatement Third is the most significant survey of the American law on this topic for over 70 years. Private law has been a comparatively neglected

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area of study in US law schools for several decades, and this is particularly true of the law of unjust enrichment. However, the appearance of the Restatement Third has prompted a renewal of interest in the subject among US scholars, and it is hoped

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that the present volume of essays will contribute to this revival, while reflecting on the lessons to be learned from the Restatement by other legal systems. Featuring the work of leading scholars from the UK, Germany, South Africa, Canada, Hong Kong and

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Australia, the essays undertake critical and comparative analysis of the Restatement, and offer fresh insights into the rules that it articulates.

The second edition of Remedies in Australian Private Law offers readers a clear and detailed introduction to

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remedies and their functions under Australian law. Clearly structured, with a strong black-letter law focus, the text provides a complete treatment of remedies in common law, equity and statute and develops a framework for understanding the principles of private

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law remedies and their practical application. This edition has been significantly revised and offers up-to-date coverage of case law and legislation, including the Australian Consumer Law. Building on the detailed treatment of remedies and

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their broad functions across a range of private law categories, the new edition also offers expanded coverage of vindicatory damages, debt, specific restitution and coercive remedies. With its systematic and accessible approach, this text enables students and

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practitioners to develop a coherent understanding of remedial law, and to analyse legal problems and identify appropriate remedial solutions.

This book was birthed as a result of the author's varied experience in dealing with and overcoming culture shock,

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bias and systematic racism as a professional and black female minority working class woman living in Australia in the 21st century.

This book adopts a principled approach to the law applied in the construction of commercial contracts.

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This approach is presented as part of a coherent theory of the law of contract construction which makes a unique contribution to scholarship and understanding of the most important aspect of the practice of commercial lawyers. The law is explained by

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reference to three stages in construction. It distinguishes the preliminary stage in which context is established, from the 'meaning' and 'application' stages of contract construction. The approach provides insights both into the practical

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problems that lawyers face, in particular in relation to admissibility of extrinsic evidence, and the theoretical underpinnings of the subject. The book also explains the relationship between intention and construction, and discusses general and specific rules that

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determine the results of construction disputes. Each chapter is introduced by statements of its objectives and the book includes simple definitions of key concepts, as well as summaries of the complex principles which comprise the law of construction. In illustrating

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construction principles and their application, the exposition of the law draws on the author's knowledge of Australian contract law and the influence and role of the UNIDROIT principles, CISG and the American Restatement (Second) Contracts.

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The Principles of the Law of
Restitution
Enrichment in the Law of Unjust
Enrichment and Restitution
An Index and Digest of Published
Writings

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The Law of Restitution

Carter's Breach of Contract is well established as the leading text on the subject in the Commonwealth, having been cited regularly and with approval by the courts in a number of jurisdictions. The work is

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comprehensive in relation to both
English and Australian law.

Moreover, by drawing on decisions
in the United States, Singapore and
New Zealand, the American Law
Institute's Restatement of Contract,
2nd as well as the Uniform

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Commercial Code (US) and the United Nations Convention on Contracts for the International Sale of Goods, the work has a unique comparative dimension. It will therefore be a valuable resource for scholars, practising lawyers and

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students of contract law. This new edition retains the hallmark of the previous edition: its statement of the law of breach of contract in a series of articles, which codify the law as a set of brief statements of principle. These articles are also reproduced in

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the Appendix, and together with an extensive bibliography, index, and tables, make this the ideal first port of call for all questions relating to breach of contract.

Barely 10 years old and growing rapidly, the doctrine of unjust

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enrichment offers splendid rewards to those who understand it and grave dangers to those who do not. This short book explains clearly and concisely the uses and dangers of the doctrine. Davenport, author of the very successful Construction

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Claims, and Harris draw primarily upon examples in construction law, where unjust enrichment has had its greatest impact, while pointing out that the principles in their book are of general application. They also note that the recency of the doctrine

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means that there are as yet only a handful of Australian cases so that academic opinion and international caselaw play a vital role; hence, extensive footnotes and a five-page bibliography.

Enrichment is key to understanding

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the law of unjust enrichment and restitution. This book provides a comprehensive analysis of the concept of enrichment and its implications for restitutionary awards. Dr Lodder argues that enrichment may be characterised

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either factually or legally, and explores the consequences of that distinction. In factual enrichment cases, the measure of enrichment is the objective value received. This is the basis of many awards of money had and received, quantum meruit,

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quantum valebat and money paid. In legal enrichment cases, the benefit is the acquisition of a specific right or the release of a specific obligation. The remedy is restitution of that right or reinstatement of that obligation. It is demonstrated that

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specific restitution of the defendant's legal enrichment is often the basis for resulting trusts, rescission, rectification and subrogation. This book has profound implications for understanding restitutionary awards and the relationship between the

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enrichment inquiry and other aspects of the law of unjust enrichment, including the 'at the expense of' inquiry and the defence of change of position.

Now in its second edition,
Construction Law is the standard

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work of reference for busy construction law practitioners, and it will support lawyers in their contentious and non-contentious practices worldwide. Published in three volumes, it is the most comprehensive text on this subject,

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and provides a unique and invaluable comparative, multi-jurisdictional approach. This book has been described by Lord Justice Jackson as a "tour de force", and by His Honour Humphrey LLoyd QC as "seminal" and "definitive". This

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new edition builds on that strong foundation and has been fully updated to include extensive references to very latest case law, as well as changes to statutes and regulations. The laws of Hong Kong and Singapore are also now covered

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in detail, in addition to those of England and Australia. Practitioners, as well as interested academics and post-graduate students, will all find this book to be an invaluable guide to the many facets of construction law.

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Contract Law in Australia

Journal of Contract Law

Cases and Materials on the Law of
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Attribution Rules in Unjust

Enrichment

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Remedies, 2nd Edition

Incorporating recent case law developments, the second edition of Equity and Trusts in Australia provides undergraduate and Juris Doctor students with a current and accessible introduction to

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Australian equitable and trust law. Expanding upon first edition content, the text includes greater depth of topic discussion, explanation of key theories and terminology, while demonstrating how these are applied in practice.

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doctrines to their wider relationship with the law, making it a fundamental text for students embarking on this area of study for the first time.

Remedies in Australian Private Law offers a detailed introduction

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to remedies and their functions under Australian law. With a strong black-letter law focus, the text provides a complete treatment of remedies in common law, equity and statute and develops a framework for understanding the

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principles of private law remedies
and their application.

Cases and Materials on the Law of
Restitution is an authoritative and
scholarly guide written by leading
experts who have shaped and
defined the law of restitution and

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unjust enrichment. Extensive coverage of cases and academic perspectives provides a rounded view of the subject. Introductions, notes, and questions enable readers to check their understanding of key issues. The second edition of this

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seminal title covers many important new cases and academic publications, including Birk's 'absence of basis' approach. The coverage reflects the continuing debates on questions such as: * what is an enrichment? * was the

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enrichment at the claimant's
expense? * what is the role of
tracing? * when will proprietary
restitution be granted? * when does
change of position operate as a
defence? * and does corrective
justice underpin this area of the

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law? The book's structure has been updated to reflect the judicial development of the law of restitution, providing a map through this complex subject. This book is invaluable for undergraduate, postgraduate, and

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doctoral students, as well as academics working in the area. Australian Restitution Law contains comprehensive extracts of the most significant cases from Australia and England, preceded by detailed factual analysis. The

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commentary thoroughly clarifies and develops the topics, and explains the various academic views in areas where these are likely to be influential. This second edition incorporates a number of important new cases, including the

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CC (1999) on recovery of payments
made under a mistake of law;
Attorney-General v Blake (2001) on
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and the High Court of Australia decision in *Roxborough v Rothmans of Pall Mall Australia Ltd* (2001) on various aspects of restitution law, including recovery of money on the basis of a total failure of consideration and the

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disgorgement damages for breach of contract, and the use of unjust enrichment in the cohabitation context. The contributors are Kit Barker, Peter Benson, Jeffrey Berryman, Michael Bryan,

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