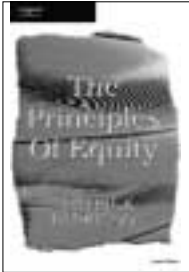


# The principles of equity (2nd ed)

By Patrick Parkinson (ed)  
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This book offers the work of twenty-five authors, with a good mix of academics and practitioners. Each has contributed to an overall work that is a fine example of the scholarship and consideration that allows a full appreciation of the subtleties of the principles of equity.

This is the second edition of a book first published in 1996, in which twenty authors combined to address the principles of equity. More authors have been added in this second edition to revise and update the work of those of the original twenty who were not able to undertake the task themselves. The result is that the original approach of the book is maintained with currency.

It is also to be noted that the editor acknowledges that many of the chapters in the first edition were based on material which first appeared, in a different form, in the 'Equity' and 'Unfair dealing' titles of *The laws of Australia* (Lawbook Co.) first published in 1993. Again, the original work has been reviewed and updated where appropriate.

For those not familiar with the work, the book allows an author a chapter dealing with a particular area concerning the operation and application of the principles of equity. Because of the many authors involved, the sense is one of a collection of essays or analyses rather than a single text. This approach is advantageous as it provides a ready assessment of the general principles in a particular field.

This second edition deals largely the same topics with some broadening of the scope and comparison with recent important authorities and scholarship in the UK, Canada and New Zealand, and to a lesser extent the United States and elsewhere. Some recent reference material is also acknowledged and incorporated, particularly in the areas of equitable remedies, the law of tracing and restitution.

John Glover's chapter on 'Equity and restitution' in the first edition has been replaced by an analysis by Michael Bryan, which deals more with the issue of unjust enrichment and restitution, with a consideration of restitution in equity then addressed. John Glover's chapters on 'Contribution' and 'Subrogation' in the first edition remain, having been updated by Andrew Robertson.

Barbara MacDonald, having contributed to the first edition in chapters on 'Marshalling' and 'Constructive trusts', has updated her own work and the original chapter of David Maclean on 'Injunctions'.

Chris Rossiter addressed the area of 'Relief against penalties' in the first edition and has updated this chapter. Also, he has expanded into a somewhat related area by also revising and updating Michael Tilbury's chapter entitled 'Relief against forfeiture'.

Ian Davidson's chapter on 'Taking accounts' has been updated by Mark Cleary, and remains a big plus for the book. This analysis of the availability, principles and procedure of remedy often sought is a valuable guide to those who practice in equity.

While there may be overlapping of certain areas because of the number of individual authors, this does allow the reader to be informed from different points of view. While a subject is considered of itself, the reader can contrast the approach or conception of each author in consideration of the more fundamental precepts of equity.

As a result of the scope of the endeavour, and the collection of the thoughts of so many authors, time and space becomes limited. Those interested in a deep analysis of particular or general issues in equity may be better advised to seek a publication that does not strive to engage such a large field of scholarship and law.

For example, the assessment as to whether a constructive trust is properly considered to be an institution or a remedy, or both, or why it matters, is somewhat short. The issue is described as vexed and the author suggests that there are matters of practical and conceptual importance which turn upon it. However, space prohibits any detailed analysis of what those matters are and their suggested importance. Indeed, one's curiosity is pricked by the footnote that acknowledges, contrary to the author's position, that others consider the matter to a 'bogus discourse' or idle, a matter of rhetoric and unsound. The potentially sharp dialect on the question is only hinted at, and the reader is left to pursue the debate by references to journal articles and cases provided.

The obvious comparison for those considering a text on equity in Australia is with *Meagher, Gummow & Leane's equity, doctrines & remedies*. In simple terms, the titles of each book give an appropriate indication of the respective advantages.

As the primary focus of this work is with 'principles', and in approaching the broad field by the employment of so many authors, this work provides a good analysis of the law and its application in areas of practice in equity. In some contrast (although it is shades of grey rather than black and white) *Meagher Gummow & Lehane*, by dealing more with 'doctrines' and with fewer authors, provides a more unified, and perhaps fuller, exposition of the concepts and thought which underlies the principles of equity with which it deals.

In conclusion, the first edition of this book was a worthy addition to the well-known texts on equity and trusts. The second edition maintains that position and reflects impressively on the authors and on the developments of the principles of equity in recent years. It undoubtedly has a place in any well-furnished library on equity.

*Reviewed by Frank Hicks*