

# CONTRACT AND COMMERCIAL LAW

## 2010–2011

An invaluable collection for commercial practitioners



Turn to pages **3**, **5** and **8** for more information on these new titles

**OXFORD**  
UNIVERSITY PRESS

## INTRODUCTION

Oxford University Press is one of the leading publishers of commercial law for practitioners. Our titles span the width of commercial practice and are complimented by our other publishing lists including Banking & Finance and Competition Law.

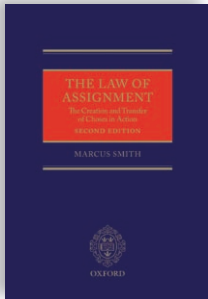
Our commercial law list has established itself over recent years with the publication of Schlechtriem and Schwenzer's *Commentary on the UN Convention on the International Sale of Goods*, now in its third edition, and Vogenauer and Kleinheisterkamp's *Commentary on the UNIDROIT Principles of International Commercial Contracts*. We will continue to build on this success in 2010 and 2011 with new editions for Smith's *The Law of Assignment* and the groundbreaking work by Goode, Kronke, McKendrick and Wool, *Transnational Commercial Law*.

New publishing in this area includes Scorey, Geddes and Harris, *Bermuda Excess Liability Form*, which provides a detailed analysis of the form along with a detailed guide to the dispute resolution process.

Munday's *Agency: Law and Principles* provides an accessible and easy-to-use book on the subject and DeKoven and Hauck's forthcoming *Commentary on the UNIDROIT Model Law on Leasing* will be the first to address this important new set of rules.

Our contract law list will also see publication of an important new edition this year, McMeel's leading work, *The Construction of Contracts*, has been fully updated to give an expanded coverage of additional clauses. This new edition is well complimented by a new work from Furmston and Tolhurst, *Contract Formation*, which gives practical analysis of the legal principles governing the formation of contracts in English law, and on a similar subject the latest title from the Oxford-Norton Rose Colloquium series address *Contract Formation and Parties*, edited by Burrows and Peel.

To discuss publishing with OUP's growing contract and commercial law list please contact Joanna Dymond at [joanna.dymond@oup.com](mailto:joanna.dymond@oup.com)



**NEW EDITION**  
**The Law of  
 Assignment**  
 The Creation and Transfer  
 of Choses in Action

Second Edition

**Marcus Smith QC**, Barrister  
 at Fountain Court Chambers.

*‘The resulting 616-page volume  
 is a triumph of text book writing.*

*It was a job worth doing and Smith has done it exceedingly well. The book is excellently structured and easy to navigate. Its coverage is about as comprehensive as it is possible to wish for... In conclusion, Smith’s treatise is a triumph, and one of the most important new works in commercial law for decades’*

**PROFESSOR GERARD McMEEL, CLWR, REVIEW OF PREVIOUS EDITION**

- The only comprehensive and definitive work on the complex topic of intangible property
- Full consideration of assignment in all appropriate areas (debt finance, securities, insurance and intellectual property)
- Includes checklists of key questions to consider when assigning a chose with cross-references to answers in the book
- Previous edition was cited in courts internationally including in the US and Singapore as well as the UK
- Includes new material on rights or causes of action to reflect recent developments in litigation finance and no-win/no-fee arrangements

Providing a comprehensive treatment of the law relating to intangible property or choses in action this new edition considers all forms of intangible property (debts, rights under contract, securities, intellectual

property, leases, rights/causes of action and equitable rights). The book examines the nature of intangible property, how it comes into being and how it is transferred or assigned. It identifies the consequences of transfer, including what property cannot be transferred and the difficult question of priorities.

The approach of the book is both analytical and practical. The first parts focus on general principles regarding intangibles and their transfer. The book then moves on to consider the law relating to particular types of intangibles, securities (paper, immobilized and dematerialized), insurance contracts, leases and intellectual property.

There is an expanded section on the taking of security over intangibles, as well as new material on rights or causes of action to reflect recent developments in litigation finance and no-win/no-fee arrangements. The Equities chapter is expanded to cover the transferability of notes and other debt securities, while the section on assignability of debts is expanded to include practical treatment of factoring. Also included is new comparative European and US material.

## CONTENTS

**Part I:** Choses in Action and their Nature

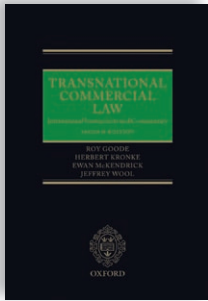
**Part II:** The Transfer of Choses in Action

**Part III:** Consequences and Effects of Assignments

**Part IV:** Assignments in Particular Contexts

**Part V:** Conflict of Laws

996 pp | June 2011 | 978-0-19-958508-3 | £175.00 | Hardback



**NEW EDITION**  
 Transnational  
 Commercial Law  
 International Instruments  
 and Commentary

Second Edition

**Roy Goode**, Emeritus  
 Professor of Law, University  
 of Oxford, and Emeritus  
 Fellow of St John's College,

Oxford, **Herbert Kronke**, Secretary-General UNIDROIT,  
 Rome, and Professor of Law at the University of  
 Heidelberg, **Ewan McKendrick**, Professor of English  
 Private Law, University of Oxford, and Professional  
 Fellow, Lady Margaret Hall, Oxford and **Jeffrey Wool**,  
 Partner, Perkins Coie, Washington

Transnational commercial law represents the outcome of work undertaken to harmonize national laws affecting domestic and cross-border transactions and is upheld by a diverse spectrum of instruments. This new edition contains a full updated collection of all the major transnational commercial law instruments relating to commercial contracts, this new edition is interspersed with explanatory linking text identifying key issues covered by the instruments. This unique work provides an indispensable guide to the primary transnational commercial law instruments.

The volume, now in its second edition, brings together the major instruments in this field, dividing them into thirteen groups: Treaty Law, Contracts, Electronic Commerce, International Sales, Agency and Distribution, International Credit Transfers and Bank Payment Undertakings, International Secured Transactions, Cross-Border Insolvency, Securities Settlement and Securities Collateral, Conflict of Laws, Civil Procedure, and Commercial Arbitration. A new section has been on Carriage of Goods and includes the Convention on the Contract for the International Carriage of Goods by Road and the

Hague-Visby Rules whilst other new instruments have been added throughout.

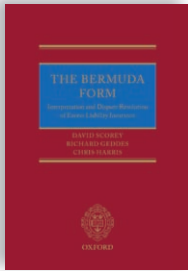
Each group of instruments is preceded by linking text identifying the key instruments in each group, discussing their purposes and relationships, and explaining the major provisions of each instrument, thus setting them in their commercial context. This volume is unique in providing the full text of international conventions, including the preamble – which is important for interpretation – and the final clauses and any annexes.

In addition, each instrument is accompanied by a complete list of dates of signature and ratification by all contracting states, and is preceded by a table of contents for that instrument, for ease of navigation. This fully-indexed work provides an indispensable guide for the practitioner or academic to the primary transnational commercial law instruments.

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- 1 Treaty Law
- 2 International and European Restatements of Contract Law
- 3 Electronic Commerce
- 4 International Sales
- 5 Agency and Distribution
- 6 International Credit Transfers and Bank Payment Undertakings
- 7 International Secured Transactions; Intermediated Securities
- 8 Cross-Border Insolvency
- 9 Securities Settlement and Securities Collateral
- 10 Conflict of Laws
- 11 International Civil Procedure
- 12 International Commercial Arbitration
- 13 Carriage of Goods

1200 pages | June 2011 | 978-0-19-958286-0 | £175.00 | Hardback

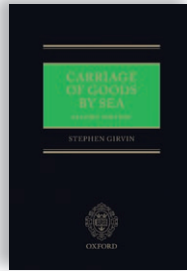


### The Bermuda Form Interpretation and Dispute Resolution of Excess Liability Insurance

**David Scorey**, Barrister, Essex Court Chambers, London.  
**Richard Geddes**, Partner, Sedgwick, Detert, Moran and Arnold LLP, Chicago, and **Chris Harris**, Partner, Clyde & Co LLP, London

Explaining the origin, structure and purpose of the Bermuda Form, this new book provides a commentary on the meaning and effect of its terms and is written by expert practitioners with a wealth of experience in insurance law and dispute resolution. The work addresses the dispute resolution process and covers the legal and practical issues which arise in international arbitration of large and complex disputes under the Bermuda Form. This book provides a valuable guide for even experienced practitioners in this difficult area of the law, adding significantly to the nascent body of information on the analysis, interpretation and construction of the Bermuda Form.

592pp | March 2011 | 978-0-19-958361-4 | £125.00 | Hardback



### Carriage of Goods by Sea

Second edition

**Stephen Girvin**, Professor of Law, National University of Singapore

- New coverage of the Rotterdam Rules
- Expanded treatment of bills of lading and a new chapter on damages
- Draws together principles from key UK and Commonwealth cases
- Appendices include standard forms and legislation

This new edition provides a comprehensive analysis of the law of carriage of goods by sea including bills of lading and charterparties, limitation, admiralty claims, and maritime arbitration. Written from the perspective of English law the book also references cases in other major commonwealth countries such as Australasia, Malaysia, Singapore, Hong Kong and South Africa.

978-0-19-958991-3 | £155.00 | 955 pages | March 2011

NEW EDITION

### Schlechtriem & Schwenger:

Commentary on the UN Convention on the International Sale of Goods (CISG)

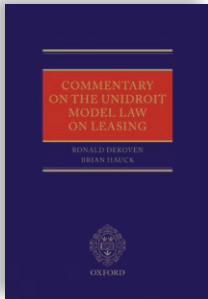
Third Edition

Edited by **Ingeborg Schwenger**, Professor of Law, University of Basel

- Gives complete and thorough comparative analysis of all accessible decisions by courts and arbitral tribunals throughout the world, offering a convenient single source of reference

The third edition of this established text comments on major decisions in international case law and the impact of developments in domestic law on an international level. It also considers the new opinions of the CISG Advisory Council on important issues such as the buyer's right to avoid the contract in case of non-conforming goods or documents, the calculation of damages under CISG, Art 74, the exemption of liability for damages under CISG, Art 79, and the calculation of damages under CISG, Arts 75 and 76.

January 2010 | 978-0-19-956897-0 | £225.00 | Hardback



### Commentary on the UNIDROIT Model Law on Leasing

**Ron DeKoven**, 3–4 South Square, and **Brian Hauck**, Senior Counsel to the Associate Attorney General, United States Department of Justice

The only book to analyse the final text of *The UNIDROIT Model Law on Leasing*, adopted in November 2008, this commentary is written by two of its draftsmen, who both performed pivot roles in its development.

The Commentary provides essential reading for lawyers advising foreign companies who are considering investing in a particular state, as well as practitioners and judges interpreting leasing law. It examines the origins of the text in order to provide clear interpretation of the provisions, and offers guidance on how those enacting the law might adapt it for the particular needs of their state.

420pp | March 2011 | 978-0-19-959544-0 | £155.00 | Hardback



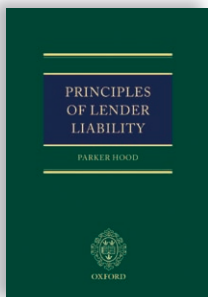
### Agency Law and Principles

**Roderick Munday**, Director of Studies in Law at Peterhouse, Cambridge and Reader in Law at the University of Cambridge

- A unique and accessible practitioner work, useful as an aide-memoire and

- an additional reference source
- Includes detailed coverage of the Commercial Agents (Council Directive) Regulations 1993 and resultant case law
- Includes discussion of problematic areas such as actual and apparent authority of an agent, agency of necessity, want of authority and ratification, sub-agency and termination
- Addresses the application of law and the activities of agents operating in the major commercial centres, such as finance and banking, and international trade.
- Written in a clear and accessible style

416 pp | January 2010 | 978-0-19-923037-2 | £34.95 | Paperback



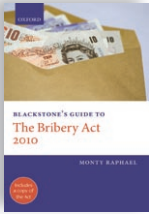
### Principles of Lender Liability

**Parker Hood**, Lecturer in Law, University of Edinburgh and Solicitor (non-practising)

- The only UK work on the topic of lender liability
- Covers key situations in which banks could incur liability, ranging from confidentiality and advice on transactions, to fraud and wrongful trading
- Offers a practical consideration of central issues and underlying principles

Providing a detailed analysis of the law of bank liability this book covers the central issues and underlying legal principles. It outlines liability in negligence and contract, with specific reference to the banking practice and existing case law concerning banks in this field.

690 pp | August 2011 | 978-0-19-829903-5 | £175.00 | Hardback



## Blackstone's Guide to the Bribery Act 2010

**Monty Raphael**, Special Counsel,  
Peters & Peters

- Clearly explains the new provisions in the Bribery Act, including the core bribery offences, defences, facilitation payments and issues of jurisdiction
- Contains coverage of the new corporate offences, including the defence of “adequate provisions”
- An excellent quick reference tool, logically organized and following the structure of the Act

The *Blackstone's Guide* Series delivers concise and accessible books covering the latest legislative changes and amendments. Published soon after enactment, they offer expert commentary by leading names on the scope, extent and effects of the legislation, plus a full copy of the Act itself.

250 pp | September 2010 | 978-0-19-957978-5 | £39.95 | Paperback



## Principles, Definitions and Model Rules of European Private Law Draft Common Frame of Reference (DCFR)

6 volumes

Edited by **Christian von Bar**, Professor of Law at the Universität Osnabrück, and **Eric Clive**, Visiting Professor, University of Edinburgh School of Law

This landmark reference work comes complete with all the scholarly apparatus needed to interpret the principles. It offers an exhaustive bibliography of primary legal materials alongside comparative analysis, providing the most comprehensive resource available for researchers in European law and legal history. Commissioned by the EU itself, the study will form a central part in all future discussions of legal harmonisation within the EU.

6,704 pp | OUP/Sellier | January 2010

978-0-19-957375-2 | £750.00 | Hardback

### ALSO OF INTEREST

#### The Rome II Regulation

The Law Applicable to Non-Contractual Obligations Updating Supplement

**Andrew Dickinson**, Consultant, Clifford Chance LLP and Solicitor Advocate (Higher Courts – Civil)

208 pp | June 2010 | 978-0-19-958846-6

£45.00 | Paperback

#### The Rome II Regulation

The Law Applicable to Non-Contractual Obligations

**Andrew Dickinson**, Consultant, Clifford Chance LLP and Solicitor Advocate (Higher Courts – Civil)

1,076 pp | July 2010 | 978-0-19-958979-1

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700 pp | OUP USA | April 2010

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Second Edition

**Michael Bridge**, Professor of Law, London School of Economics

984 pp | 2009 | 978-0-19-955977-0

£155.00 | Hardback

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Edited by **Stefan Vogenauer**, Professor of Comparative Law and Fellow of Brasenose College, University of Oxford; Director of the Oxford Institute of European and Comparative Law, and **Jan Kleinheisterkamp**, Lecturer in Law, London School of Economics

1,552 pp | 2009 | 978-0-19-929175-5

£210.00 | Hardback

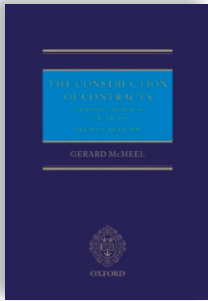
#### Outsourcing Agreements

A Practical Guide

**George Kimball**, Former Partner at Baker & Mackenzie

552 pages | January 2010

978-0-19-957522-0 | £95.00 | Paperback



**NEW EDITION**  
**The Construction  
of Contracts**

Second Edition

**Gerard McMeel**, Professor of Law, University of Bristol; Barrister, Guildhall Chambers, Bristol, and Quadrant Chambers, London

- Provides a clear and comprehensive account of the legal principles and doctrines that come into play whenever parties disagree about the meaning and effect of contractual words.
- Tackles warranties and indemnities, exception clauses, force majeure, express termination, retention of title, variation and waiver
- References all relevant case law and journal articles useful for detailed argument

Giving a comprehensive account of the principles involved in the construction of contracts this book tackles modernisation head on and equips readers with the necessary means to avoid pitfalls in contractual provisions.

Covering related rules and doctrines, including rectification and implication of terms, and consideration of the status of the controversial 'parol evidence rule', the book also considers the nature of effect of particular types of contractual provision, including warranties and indemnities, exemption clauses, force majeure clauses and entire agreement clauses. Content new to this edition includes coverage of additional clauses such as retention of title, arbitration, choice of law and jurisdiction, as well as an examination of the relationship between the rules for the interpretation of contracts and other juridical uses of interpretation such as statutory interpretation, construction of memorandum and articles of association, construction of wills, and patents. This comprehensive coverage ensures that practitioners have all they need in one single source of reference.

725 pp | February 2011 | 978-0-19-958248-8 | £175.00 | Hardback

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- 6: Standard Form Contracts, Public Policy, and the Realms of Strict Construction and Strict Compliance
- 7: Presumptions
- 8: Maxims
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- 11: Implication in Fact: Ad Hoc Gap-fillers
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- 20: Conditions, Warranties, and Indemnities
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- 24: Payment: Penalties, Liquidated Damages and Acceleration Clauses
- 25: Time Stipulations

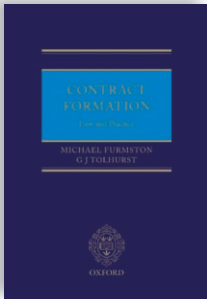
- 26: The Integrity of the Instrument: 'Entire Agreement' and 'Non-reliance' Clauses

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- 27: The Status of Instruments: Forgeries, Deliberate Alteration, *Non est factum*, and Shams

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- 28: Evidence: Documents, Originals, and Copies



## Contract Formation Law and Practice

**Michael Furmston**,  
Professor of Law, Singapore  
Management University, and  
**G.J. Tolhurst**, Sydney Law  
School

- Provides practical insight into planning and drafting letters of intent, heads of agreement or similar pre-contractual documents
- Considers drafting devices available to avoid being legally bound
- Two part structure separates discussion of the pre-contract stage from the practical requirements for the formation of a contract

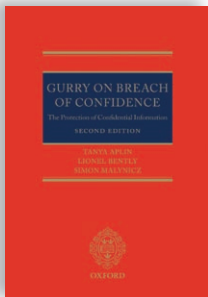
Providing a practical analysis of the legal principles which govern the formation of contracts in English law this book offers those involved in litigation and in drafting contracts a guide to the application of those principles in practice. Analysing a wide range of case law this book provides you with clear guidance to the relevant principles and their application. It deals in detail with the pre-contract stage of contract formation, the use of heads of agreement, letters of intent, offer and acceptance, conditional contracts,

the battle of the forms, the relevance of silence and uncertainty. It also considers tenders and auctions as well as including a chapter on contract formation online. Although this work is based on English law, the authors draw upon decisions in other jurisdictions such as Australia, Canada, the United States and New Zealand, where these inform the development of principles in English law.

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2. Offers and Invitations to Treat
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9. Conditional Contracts
10. Denial of Legally Binding Effect
11. Certainty and Completeness
12. Is there a Duty to Negotiate in Good Faith?
13. Pre-Contractual Liability

480 pp | March 2010 | 978-0-19-928424-5 | £155.00 | Hardback



## NEW EDITION Gurry on Breach of Confidence The Protection of Confidential Information

Second Edition

**Tanya Aplin**, Lecturer in Law, King's College, London, **Lionel Bently**, Herchel Smith Professor of Intellectual Property Law and Director of the Centre for Intellectual Property and Information Law, University of Cambridge, and **Simon Malynicz**, Barrister, Hogarth Chambers

This new edition has been extensively revised in light of the numerous legislative developments of the last two and a half decades, which include the TRIPS Agreement, the European Data Protection Directive, the Freedom of Information Act, the Public Interest Disclosure Act and the Technology Transfer Regulation

704 pp | March 2011 | 978-0-19-929766-5 | £195.00 | Hardback



## Contract Formation and Parties

Edited by **Andrew Burrows**, Professor of Commercial Law, University of Oxford, and **Edwin Peel**, Tutor in Law at Keble College, University of Oxford

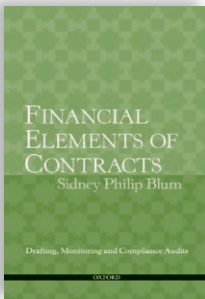
- A unique and in-depth examination of issues which are vital to practitioners and of key interest to academics

This book presents a collection of current thinking on the central themes of contract formation and parties. The eighth volume in the Oxford-Norton Rose Law series, the chapters originate from papers presented at the colloquium held in September 2009. The Oxford-Norton Rose Law colloquia bring together practitioners and academics to examine and discuss an area of commercial law central to both communities.

## CONTENTS

**Andrew Burrows and Edwin Peel:** Introduction  
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**Ben McFarlane:** Contract Formation: Promissory Estoppel  
**John Cartwright:** Liability in Tort for Pre-Contractual Non-Disclosure  
**James Edelman:** Liability in Unjust Enrichment where a contract fails to materialise  
**Andrew Tettenborn:** Problems in Assignment Law  
**Thomas Krebs:** Why there is no magic in agency  
**Hugh Beale:** A Review of the Contracts (Rights of Third Parties) Act 1999

288 pp | August 2010 | 978-0-19-958370-6 | £115.00 | Hardback



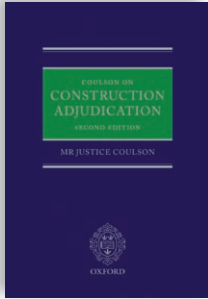
## Financial Elements of Contracts Drafting, Monitoring and Compliance Audits

**Sidney Blum**, Partner, Stonefield Josephson

- A uniquely focused book that provides extremely valuable information about how to properly protect a party receiving self-reported information and identifies the opportunities for reasonable penalties when the contract is violated
- Written by an expert in third-party auditing with contract compliance experience
- Provides practitioners with guidance on how to avoid the pitfalls of licensing, from the beginning contracting phase through to monitoring and auditing

*Financial Elements of Contracts: Drafting, Monitoring and Compliance Audits* presents the financial nuances of contracting in high-tech licensing deals and demonstrates how proper monitoring and auditing should occur once a deal is in place. It is essential reading for In-house lawyers, litigators, corporate counsel, law schools and business executives.

378 pp | OUP USA | March 2010 | 978-0-19-538863-3 | £130.00 | Paperback



**NEW EDITION**  
Coulson on  
Construction  
Adjudication

Second Edition

**Mr Justice Coulson**, High  
Court Judge, Queen's Bench  
Division

*'You can't take part in the  
business of adjudication in*

*building construction cases without this book ... [it] has real  
authority and experience.'*

**TONY BINGHAM, BUILDING, REVIEW FROM PREVIOUS EDITION**

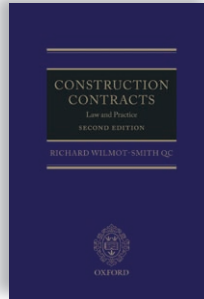
- The only complete guide to the cases and principles relating to construction adjudication
- Extensively revised and updated to analyze the plethora of new cases decided since the previous edition

Provides comprehensive coverage of the construction provisions in the Local Democracy, Economic Development and Construction Act 2009

The first edition of *Construction Adjudication* was the first book to deal comprehensively with the law and practice of adjudication in construction and engineering disputes. Written by a High Court judge sitting in the Technology and Construction Court, this new edition of *Coulson on Construction Adjudication* provides a definitive up-to-date text, invaluable to all involved in the adjudication process.

Containing new material on the principles of fairness and natural justice which have been key to many adjudication enforcement decisions, this new edition also contains an expanded section offering practical advice to parties and to adjudicators as to how they can ensure a successful adjudication, and includes new material on the decision.

624 pp | March 2011 | 978-0-19-959722-2 | £225.00 | Hardback



**NEW EDITION**  
Construction  
Contracts  
Law and Practice

Second Edition

**Richard Wilmot-Smith QC**,  
Barrister, 39 Essex Street  
Chambers

- Offers extensive coverage of arbitration and adjudication
- Written by a highly regarded practitioner guaranteeing the highest quality commentary and analysis

The second edition of this well-regarded title continues to take a clear and practical approach to the law and practice relating to construction contracts in the UK. It provides comprehensive coverage of the substantive law and modern dispute resolution procedures in the field of construction.

Throughout the work the author provides key practical tips including: where and when you issue proceedings; what the judges will expect and their preferences; and how trials can be made shorter. A separate section also examines enforcement of adjudicator's awards covering recent case law on this area. This is carefully examined and digested in detail to ensure the reader has an understanding of the pitfalls of enforcement.

The second edition covers all relevant case law and legislation since the publication of the first edition in 2006 including the changes as a result of the Local Democracy, Economic Development and Construction Act 2009. It includes a new chapter on partnering.

752 pp | March 2010 | 978-0-19-959759-4 | £225.00 | Hardback

## ALSO OF INTEREST

### NEW EDITION

Damages Under the  
Convention of Contracts  
for the International Sale of  
Goods

Second Edition

**Dr Bruno Zeller**, Associate  
Professor of Law

352 pp | OUP USA | 2009  
978-0-19-537186-4 | £110.00 | Hardback

The Oxford Introductions  
to US Law Contracts

**Randy E. Barnett**, Carmack  
Waterhouse Professor of Legal  
Theory at Georgetown University  
Law Center

284pp | OUP USA | July 2010  
978-0-19-974018-5 | £12.99

### NEW TITLES IN THE EUROPEAN CIVIL CODE SERIES

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Edited by **Ulrich Drobnig**,  
Professor of Law, Universitat  
Hamburg; Max-Planck Institute,  
Hamburg

300 pp | March 2011 | 978-0-19-922943-7  
£80.00 | Hardback

Principles of European Law  
Loan Agreements

Edited by **Edgar du Perron**,  
Professor of Private Law,  
University of Amsterdam

400 pp | March 2011 | 978-0-19-922945-1  
£80.00 | Hardback

Principles of European Law  
Mandate Contracts

Edited by **Marco Loos**, Professor  
of Private Law at the University of  
Amsterdam, and **Odavia Bueno  
Diaz**, Phd researcher at the  
Amsterdam Institute for Private  
Law.

300 pp | March 2011 | 978-0-19-956829-1  
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