# VOLUME I

	Page
Preface	ix
Table of Statutes	xxiii
Table of Statutory Instruments	lv
Table of European Legislation	lxv
Table of International Statutory Material	lxxv
Table of Cases	lxxix
Table of European Cases	cdlxxix
12000 of European Cases	CUIXXIX
r dan '' set al independent to activity of the sections	
PART ONE	
Pitcher And Annual Market Control Annual Ann	
INTRODUCTION	11
THE RESIDENCE OF THE PERSON OF	
Bolinia Santa Sant	
	PARA.
1. Introductory S. Whittake	
1. Sources of English contract law	1-001
2. Definitions of contract	1–014
3. Fundamental principles of contract law	1–025
4. The Human Rights Act 1998 and contracts	1–057
5. Classification of contracts	1-095
6. Contracts contained in deeds	1–113
7. The relationship between contract and tort	1–145
8. Contract and other legal categories	1-219
PART TWO MONTH OF THE PART TWO	
FORMATION OF CONTRACT	
2. The Agreement M. Chen-Wishar	t 2-001
1. Preliminary	2-001
2. The offer	2-003
3. The acceptance	2-026
4. Termination of the offer	2-092
5. Special cases	2-117
6. Incomplete agreement	2-119
7. Certainty of terms	

3. Fundamental breach	15-023
4. Application of principles of construction to particular	
contracts	15-028
<ol><li>Exemption clauses and third parties</li></ol>	15-042
6. Legislative control of exemption clauses	15-062
7. Common law qualifications	15-146
8. Force majeure clauses	15-152

### PART FIVE

## ILLEGALITY AND PUBLIC POLICY

16.	ILLEGALITY AND PUBLIC POLICY	D. D. Prentice	16-001
	1. Introduction		16-001
	2. The position at common law		16-004
	<ol><li>Contracts unenforceable by statute</li></ol>		16-152
	4. Enforcement of collateral and proprietary righ	ts	16-174
	5. Severance		16-211
	<ol><li>Pleading and practice</li></ol>		16-221

### PART SIX

# JOINT OBLIGATIONS, THIRD PARTIES AND ASSIGNMENT

17.	JOINT OBLIGATIONS	A. S. Burrows	17-001
18.	THIRD PARTIES	G. H. Treitel	18-001
	1. Introduction	~O.	18-001
	2. The common law doctrine		18-003
	3. Scope		18-023
	<ol><li>Contracts for the benefit of third parties</li></ol>		18-045
	5. Enforcement against third parties		18-139
19.	ASSIGNMENT	A. S. Burrows	19-001
	1. Assignment	III S. Darrons	19-001
	2. Vicarious performance		19-082
	3. Assignment and negotiability		19-086
	4. Assignment, novation and acknowledgment	nt	19–087
20.	DEATH AND BANKRUPTCY	D. D. Prentice	20-001
	1. Death		20-001
	2. Bankruptcy		20-015

[xviii]

#### TABLE OF CONTENTS

### PART SEVEN

# PERFORMANCE AND DISCHARGE

		THE PARTY STATES	
21.	PERFORMANCE	E. G. McKendrick	21-001
	1. In general		21-001
	2. Time of performance		21-011
	3. Partial performance of an entire obligation		21-028
	4. Payment		21-040
	5. Tender		21-085
22.	DISCHARGE BY AGREEMENT	E. G. McKendrick	22-001
	1. In general		22-001
	2. Release		22-003
	3. Accord and satisfaction		22-012
	4. Rescission		22-025
	5. Variation		22-032
	6. Vaiver		22-040
	7. Provision for discharge in the contract itse	lf	22-048
13	DISCHARGE BY FRUSTRATION	E. G. McKendrick	23_001
٠٠.	1. Introduction	L. G. McKenarick	23-001
	2. The test for frustration		23-007
	3. Illustrations of the doctrine		23-007
	The limits of frustration		23-058
	5. The legal consequences of frustration		23-070
	5. The legal consequences of musication	et di la carton	23 070
24	DISCHARGE BY BREACH	E. G. McKendrick	24_001
24.	In general	L. G. McKenarick	24-001
	2. Renunciation		24-018
	3. Impossibility created by one party		24-029
	4. Failure of performance		24-035
	5. Consequences of discharge		24-049
	5. Consequences of disentage		21 017
25	OTHER MODES OF DISCHARGE	E. G. McKendrick	25 001
25.		E. G. McKenarick	25-001
	<ol> <li>Merger</li> <li>Alteration or cancellation of a written instr</li> </ol>	armont	25-020
	Miscellaneous modes of discharge	ument	25-020
	5. Miscentaneous modes of discharge		25-050
	PART EIGHT		
	REMEDIES FOR BREACH OF	CONTRACT	

[xix]

1. The nature of damages for breach of contract 26–001
26–019
26–019

H. G. Beale 26-001

26-019

3. Measures of compensation	26-034
4. Measures that are not strictly compensatory	26-043
5. Causation and contributory negligence	26-058
6. Mitigation of damage	26-079
7. Remoteness of damage and assumption of responsibility	26-107
8. Particular restrictions on recovery of damages	26-139
9. Illustrations of the assessment of damages	26-151
10. Liquidated damages, deposits and forfeiture of sums paid	26-178
11. The tax element in damages	26-217
12. Interest	26-227
27. Specific Performance and Injunction M. Chen-Wishart	27 001
1. Introduction	27-001
2. The "adequacy" of damages	27-001
3. Contracts not specifically enforceable	27-023
4. Other grounds for refusing specific performance	27-023
5. Mutuality of remedy	27-051
6. Specific performance and third parties	27-054
7. Specific performance with compensation	27-059
8. Injunction	27-065
9. Damages and specific performance or injunction	27–083
28. Limitation of Actions A. S. Burrows	28-001
1. Periods of limitation	28-001
2. Accrual of the cause of action	28-031
3. Computation of the period	28-063
4. The running of time	28-065
5. Extension of the period	28-072
6. Abridgement of the period	28-113
7. Commencement of proceedings	28-117
8. The statute bars the remedy, not the right	28-127
9. Limitation in equity	28-135

#### PART NINE

#### RESTITUTION

29.	RESTITUTION	G. Virgo	29-001
	1. Introduction		29-001
	2. Unjust enrichment		29-017
	<ol><li>Restitution for wrongs</li></ol>		29-145
	4. Proprietary restitutionary claims		29-166
	5. Defences		29-183

#### TABLE OF CONTENTS

## PART TEN

### CONFLICT OF LAWS

30. Conflict of Laws L. Merrett	30-001
1. Preliminary considerations	30-001
2. Common law: the doctrine of the proper law of a contract	30-005
3. The Rome Convention	30-017
4. The Rome I Regulation	30-129
5. Scope of the applicable law	30-304
	Page
Index	2437

#### **VOLUME II**

- 31. AGENCY
- 32. ARBITRATION
- 33. BAILMENT
- 34. BILLS OF EXCHANGE AND BANKING
- 35. CARRIAGE BY AIR
- 36. CARRIAGE BY LAND
- 37. Construction Contracts
- 38. Consumer Contracts
- 39. CREDIT AND SECURITY
- 40. Employment
- 41. Gambling Contracts
- 42. Insurance
- 43. RESTRICTIVE AGREEMENTS AND COMPETITION
- 44. SALE OF GOODS
- 45. SURETYSHIP

Please note that Volume I is available for sale separately from Volume II, so you will only have access to the above contents of Volume II if you have purchased both Volumes.

- 14. IMPLIED TERMS
- 15. EXEMPTION CLAUSES

### PART FIVE

# ILLEGALITY AND PUBLIC POLICY

16. ILLEGALITY AND PUBLIC POLICY

### PART SIX

# JOINT OBLIGATIONS, THIRD PARTIES AND ASSIGNMENT

- 17. JOINT OBLIGATIONS
- 18. THIRD PARTIES
- 19. ASSIGNMENT
- 20. DEATH AND BANKRUPTCY

### PART SEVEN

## PERFORMANCE AND DISCHARGE

- 21. Performance
- 22. DISCHARGE BY AGREEMENT
- 23. DISCHARGE BY FRUSTRATION
- 24. DISCHARGE BY BREACH
- 25. Other Modes of Discharge

### PART EIGHT

# REMEDIES FOR BREACH OF CONTRACT

- 26. Damages
- 27. SPECIFIC PERFORMANCE AND INJUNCTION
- 28. LIMITATION OF ACTIONS

### PART NINE

## RESTITUTION

29. RESTITUTION

### TABLE OF CONTENTS

#### PART TEN

#### CONFLICT OF LAWS

#### 30. CONFLICT OF LAWS

### **VOLUME II**

		Page
Table of Statutes		XV
Table of Statutory Instruments		lxxxi
Table of European Legislation		cxv
Table of International Statutory Material		cxxiii
Table of Cases		cxxix
Table of European Cases		cdlvii
Table of European Cases		
A B - Change and A -		PARA.
CO	F. M. B. Reynolds	
31. AGENCY	F. M. B. Reynolas	31-001
1. Agency in general		31-001
2. Examples of types of agent		
3. Commercial agents		31-017
<ol><li>Creation of agency</li></ol>		31-021
5. Authority		31-043
6. Principal's relations with third parties	New and Art - All	31-054
7. Agent's relations with third parties		31-083
8. Obligations of principal and agent inter	se	31–112
9. Termination of authority		31–166
32. Arbitration	A. G. Guest	32-001
		32-002
2. The arbitration agreement		32-020
Stay of legal proceedings		
Stay of legal proceedings     Commencement of arbitral proceedings		32-075
5. The arbitral tribunal		32-083
6. Jurisdiction of the arbitral tribunal		32-101
7. The arbitral proceedings		32-106
8. Powers of the court		32-123
		32-131
9. The award		32-148
10. Costs of the arbitration	word	32-156
11. Powers of the court in relation to the a		22 105
12. Miscellaneous		32-193
ATTES TO	ALCOHOL: MARKET IN	
33. Bailment	E. G. McKendrick	
1. In general		33-001
2. Possession and related matters		
3. Gratuitous bailment		THE RESERVE
4. Bailments for valuable consideration		33-044

34.		LS OF EXCHANGE AND BANKING	R. J. A. Hooley	34-001 34-001
		Negotiable instruments Aspects of banking law		34–214
35.	CAR	RIAGE BY AIR	D. McClean	
	1.	Introduction		35-001
	2.	The International Conventions		35-002
	3.	Scope and application of the Convention	ns	35-008
	4.	European legislation		35-018
	5.	Liability of the carrier		35-022
	6.	Non-international carriage		32–074
36.	CAR	RRIAGE BY LAND P. J.	S. MacDonald Eggers	
	_1.	Introduction		36-001
	2.	Internal carriage		36-007
	3.	International carriage		36–079
37.			Moran and W. Webb	
		The nature of construction contracts		37–001
	2.	Formation of contract		37–043
		Contract terms		37-063
		Particular features		37–096
		Payment		37–140
		Sub-contracts		37–173
		The contract administrator		37–185
		Breach and non-performance		37-204
		Remedies by enforcement		37–233
	10.	Disputes		37–253
38.	Cor	NSUMER CONTRACTS	S. Whittaker	38-001
	1.	Introduction		38-001
		The relationship of EU and UK consun	ner contract law	38-012
	3.	Definitions of consumer contracts	utaffin utility = / yt-	38-027
		Information requirements and con	nsumers' rights of	
		cancellation		38-055
	5.	Unfair commercial practices and the	consumer's rights to	
		redress home of Hon	on of the special	38-145
	6.	The control of unfair contract terms		38-192
		Contracts for the supply of goods, digit	al content or services	38-399
39.	CRI	EDIT AND SECURITY	E. Lomnicka	39-001
	1.	The Regulation of consumer credit		39-001
		Loans and interest		39-258
		Hire-purchase agreements		39-306
		Conditional sale agreements		39-439
		Credit-sale agreements		39-464
		Credit and other payment cards, and ch	ecks	20 172
		Mortgages of personal property		39-519
		Mortgages of land		39-529

### TABLE OF CONTENTS

40.	Емр	LOYMENT M. R. Freedland and J. Prassl	40-001
	-1.	Introduction	40-001
	2.	The factors identifying a contract of employment	40-010
	3.	Formation of the contract	40-032
	4.	Collective agreements and statutory awards of terms	40-047
	5.	Rights and duties under and associated with a contract of	
		employment	40-058
	6.	Termination of the contract	40-157
		Remedies, and rights incidental to the termination of	
		employment	40-194
	8.	Unfair and discriminatory dismissal	40-214
		Redundancy payments and procedure	40-248
	10.	Statutory dispute resolution provisions	40-264
41	Gu	ABLING CONTRACTS G. H. Treitel	41-001
41.		Introduction	41-001
		Enforceability of gambling contracts	41-010
	2.	Elliorceability of galibring conducts	11 010
42	Insi	JRANCE P. J. S. MacDonald Eggers	42-001
12.		The nature of insurance	42-001
		Insurable interest	42-005
~		The event insured against	42-018
	4	Utmost good faith and fair presentation	42-030
		The parties	42-063
) ′		The contract of insurance	42-068
	2.00	The terms of the insurance contract	42-078
	1000	Assignment	42-089
		Claims	42-092
		The rights of the insurer upon payment	42-112
		Specific types of insurance contract	42-118
12	Dro	STRICTIVE AGREEMENTS AND	
43.		MPETITION R. Whish	43-001
		Introduction	43-001
		Competition rules under the TFEU	43-004
		United Kingdom competition law	43-077
4.4			44_001
44		at or coops	44-001
		In general	44-020
		Formation of the contract	44-054
		Terms of the contract	44-130
		Effects of the contract	44-234
		Performance of the contract	44-234
		Remedies of the seller	44-387
		Remedies of the buyer	44-449
	8.	Consumer Protection Act 1987	
45	. Sui	RETYSHIP S. Whittaker	
	1.	In general	45-001
		Formation of the contract	45-019

3. For	rmalities	45-042
4. Cor	nstruction of the contract	45-062
5. Dis	scharge of debtor	45-083
6. Dis	scharge of surety	45-085
	rety's right to indemnity and contribution	45-125
	gislative protection of sureties	45–146
		Page
Index		2269

# TABLE OF STATUTES

Where a reference indicates significant discussion of the statute in the text, it is in **bold**. Where a reference is to a footnote, it is *italic*.

1677	Statute of Frauds (29 Car.2	1835	Gaming Act (5 & 6 Will.4
10	c.3)31-055, 34-038,		c 41) 41_001 41_020
	34-042, 34-115, 45-084		41–035, 41–039 s.1
	s.431-010, 39-323, 34-042,		s.1
	45-007, 45-042, 45-045, 45-047,	1838	Judgments Act (1 & 2 Vict.
	45-050, 45-052, 45-053, 45-056,		c.110) 36–133, 39–286,
	45–057, 45–060, <i>45–065</i>		39–295
1704	Bill of Exchange Act (3 & 4		s.1732-185, 32-189, 39-295
1704	Anne c.8)34–004	1845	Gaming Act (8 & 9 Vict.
1710	Gaming Act (9 Ann	10.10	c.109) 41-020, 42-013,
1710	c.19)		42-016
	41–035, 41–039		s.1841-001, 41-007, 41-009,
	s.141-019, 41-034, 41-039		41-026, 41-031, 41-034, 41-035,
277	Lotteries Act (9 Geo.1		41-041, 41-045, 41-047, 41-048
1772	c.19)41–046	1853	
1774		1033	c.59)-
1774	Life Assurance Act (14		s.19
	Geo.3 c.48)42–010,	105/	Usury Laws Repeal Act (17
	42-013, <b>42-014</b> , 42-016,	1034	& 18 Vict. c.90)39–292
	42-017, 42-072, 42-117	105/	
	s.1		Mercantile Law Amend-
	s.242-001, 42-014, 42-069		ment Act (19 & 20
	s.342-014		Vict. c.97)-
	s.442-014		s.3
1774	Fires Prevention (Metropo-		s.544–309, 45–144, 45–145
	lis) Act (14 Geo.3	1861	Forgery Act (24 & 25 Vict.
	c.78) 42–111, 42–130		c.98)-
	s.8342–111, 42–130		s.2234–048
	s.8633-103, 33=114	1863	Innkeepers' Liability Act
1792			(26 & 27 Vict. c.41)-
	(32 Geo.3 c.56)40-147		s.1
1800	Pawnbrokers Act (39 & 40		s.3 33–111
	Geo.3)-	1865	Carriers Act Amendment
	s.15 <i>33–142</i>		Act (28 & 29 Vict.
	s.1633–142		c.94)36-033
1820			Sch.1 Pt 17 Group 11(4)36-033
1828	Statute of Frauds Amend-	1867	Policies of Assurance Act
	ment Act (9 Geo.4		(30 & 31 Vict.
	c.14)31–311		c.144) 39-527, 42-088
	s.631-001, 31-110	1869	Bankruptcy Act (32 & 33
1830	Carriers Act (11 Geo.4 & 1		Vict. c.71)45-098
	Will.4 c.68)36-033, 36-034	1870	Wages Attachment Aboli-
	s.136-033, 36-075		tion Act 33 & 34 Vict.
	s.236–033	-	c.30)-
	s.336–033		s.140–099
	s.736–033	1870	Apportionment Act (33 &
	s.836–033		34 Vict. c.35)40–176,
	s.936–033		40–196
	2.7		