



The Modern Cy-près Doctrine: Applications and Implications

Rachael Mulheron

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It is unusual, in the precise world of law, to find instances of where ‘near enough is good enough’. This book explores when this is possible, referring to property and monetary transfers, under the increasingly important and influential cy-près doctrine.

The doctrine decrees that, when literal compliance is impossible or infeasible, the intention of a donor or testator should be carried out ‘as nearly as possible’. Over the past thirty years, this doctrine has marched into other legal territory where ‘as near as possible’ is also considered sufficient, such as in class actions litigation and under non-charitable trusts.

Discussing and analyzing key developments across the Commonwealth jurisdictions and the USA, this book considers whether there is a new and overarching definition which can be attributed to the cy-près doctrine. It asks whether there is a doctrinal symmetry of analysis that truly renders it a body of ‘cy-près law’ in the modern context and whether the doctrine can be expected to play an even greater role in the future.

This book is of interest to researchers and practitioners working in trusts and charity law, property law, contract law, and class actions jurisprudence.



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