



**Principles of Contract Law** by Peter Heffey, Jeannie Paterson and Andrew Robertson  
The Lawbook Company, RRP \$84.70

This book is unashamedly a student text. It says so in the first line of the Preface.

The authors are members of the faculties of law at Monash and Melbourne Universities.

As a student text, it is of limited use to practitioners who deal regularly with contract law issues.

However, for practitioners who have not considered the distinction between repudiation and reputation since they were at law school, it might come in handy as a quick reference and guide to the most important cases.

The subjects covered by the text include: the requirements for formation of a contract; a brief section on estoppel; sections on interpreting the contract both in its express and implied terms; a section dealing with determination (including a brief mention of the option of affirmation); remedies for breach; and a large section on the avenues for defendants to avoid contractual liability (such as misrepresentation, duress and illegality).

The bibliography is comprehensive and quite up-to-date.

The text was written in late 2001 and was published in early 2002. It references a number of decisions delivered in 2000 and 2001, thus demonstrating its currency.

It is also noteworthy that the authors have not limited themselves predominantly to Victorian or Federal authority as might be expected given the universities in which they teach.

There are a number of recent New South Wales, Western Australia and South Australian decisions referred to.

There are also a number of US authorities referenced, particularly in sections where the authors go beyond what the law presently is to discuss potential developments in the law by contrast with other jurisdictions.

Of course, English authority gets a comprehensive review, particularly dealing with the historical principles. The Table of Legislation is also comprehensive in its coverage of all Australian jurisdictions as well as mentioning New Zealand, UK and US statutes.

There are references to the following Northern Territory legislation: *Consumer Affairs and Fair Trading Act*, *Electronic Transactions (Northern Territory) Act*, *Law of Property Act*, *Law Reform (Miscellaneous Provisions) Act*, *Sale of Goods Act*, *Sale of Goods (Vienna Convention) Act*, *Supreme Court Act and Water Act*.

Again, the currency of the text is notable from the references to the *Law of Property Act and the Electronic Transactions (Northern Territory) Act*, both of which were passed in 2000.

In terms of substantive content, there are very few quotes from cases or references to direct statements of the law. Instead, the text is written in a more discussion-like style, posing questions rhetorically and discussing principles relevant to the issues.

In order to use the text productively in a legal practice, it would be necessary to follow the footnotes to the authorities and to think critically about their applicability to the matter in issue.

Overall, I suggest that if you are a practitioner who still has his or her student textbooks on your shelf and are still referring to them, then at only about \$81 this is a useful update at a cheap price.

It will point you in the right direction for advising clients on relatively straightforward aspects of contract law.

On the other hand, if you are serious about advising on contract law issues, pay the extra thirty odd dollars and get something like Carter & Harland's *Contract Law in Australia*, which although still being a student text, does carry a little more substance – see next month's review.

– Peter Ward, senior lawyer, Cridlands

## AN OLD URBAN MYTH

A Charlotte, New Carolina lawyer bought a box of very rare and expensive cigars then insured them against fire among other things.

Within a month, having smoked his entire stock-pile of these great cigars and without yet having made even his first premium payment on the policy, the lawyer filed a claim against the insurance company.

In his claim, the lawyer stated the cigars were lost "in a series of small fires".

The insurance company refused to pay, citing the obvious reason: that the man

had consumed the cigars in the normal fashion.

The lawyer sued...and won!

In delivering the ruling, the judge agreed with the insurance company that the claim was frivolous.

The judge stated nevertheless, that hte lawyer held a policy from the company in which it had warranted that the cigars were insurable and also guaranteed that it would insure them against fire, without defining what is considered to be "unacceptable fire", and was obligated to pay the claim.

Rather than endure a lengthy and costly appeal process, the insurance company accepted the ruling and paid US\$15,000 to the lawyer for his loss of rare cigars.

BUT after the lawyer cashed his cheque, the insurance company had him arrested on 24 counts of arson.

With his own insurance claim and testimony from the previous case used against him, the lawyer was convicted of intentionally burning his insured property and was sentenced to 24 months jail and a US\$24,000 fine.