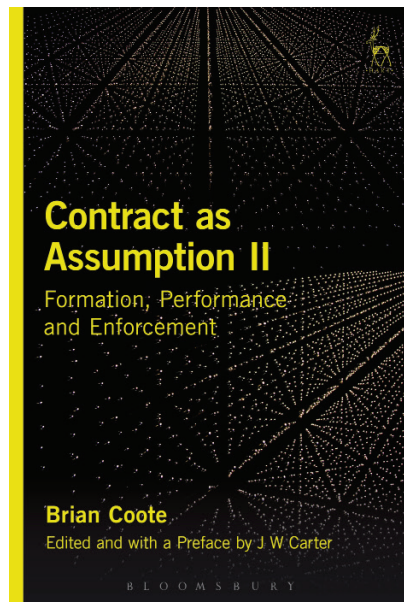


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CONTRACT AS ASSUMPTION II

Formation, Performance and Enforcement

By Brian Coote
Edited with a Preface by J W Carter

This second collection of Brian Coote's previously published writings is for the most part a follow-up to his *Contract as Assumption* (Hart Publishing, 2010). Part of the theme of that collection was that in a bilateral contract the obligations of the parties, both primary and secondary, are those which at formation they have each assumed, that is, have taken upon themselves. Being exchanged at the point of formation, these assumptions constitute the consideration. The institution of contract provides a facility the purpose of which is to enable the parties thereby to bind themselves to legal (contractual) obligation.

This emphasis on what happens at formation has prompted the inclusion of several of the papers in this collection. These focus on intention, offer and acceptance, the qualification of primary and secondary obligations whether express or implied, agency, and the effect of illegality on pre-existing rights. Falling outside this group are two pieces respectively on chance and the burden of proof and on impecuniosity, in each case in tort as well as in contract.

The collection ends with the author's valedictory lecture, "Contract – an Underview". In this paper, delivered on his retirement from the University of Auckland, he summed up his thinking on Contract. It is now for the first time given general currency.

THE AUTHOR AND EDITOR

Brian Coote, CBE, FNZAH, FRSNZ is an Emeritus Professor and sometime Dean of Law at the University of Auckland, and has published widely on Contract topics.

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