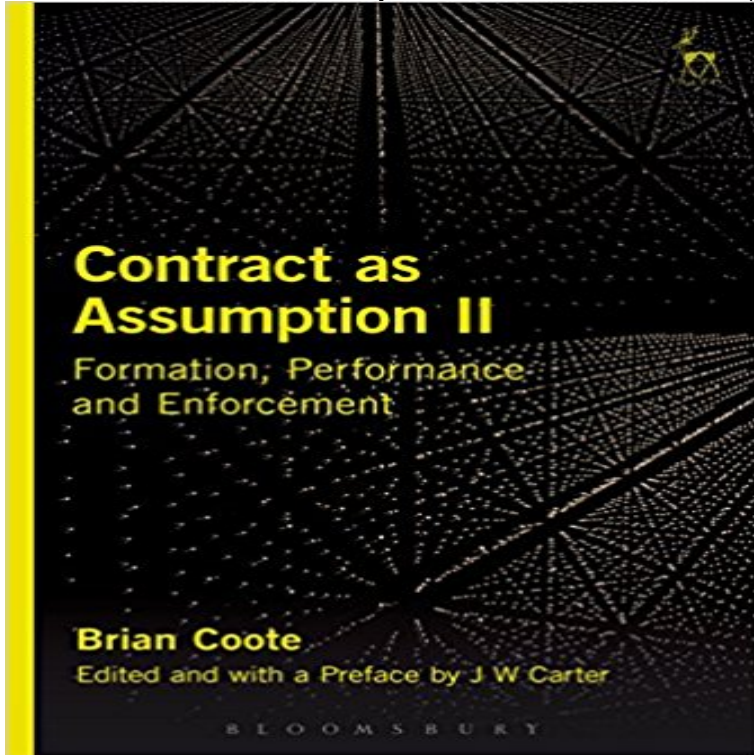


# Contract as Assumption II: Formation, Performance and Enforcement



Written by one of the worlds preeminent contract lawyers, this second collection of Brian Cootes previously published writings is for the most part a follow-up to his *Contract as Assumption* [ISBN 978 1 84946 029 3; Hart Publishing, Oxford; 2010]. Part of the theme of the first collection was that, in a bilateral contract, the obligations of the parties, both primary and secondary, are those which at the 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. The emphasis on what happens at formation has prompted the inclusion of several of the papers in this present 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 essays respectively on chance and the burden of proof, as well as on impecuniosity, in each case in tort as well as in contract. The book ends with Brian Cootes 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. *Contract as Assumption II* reflects Cootes influential theory of contract law. [Subject: Contract Law]

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Assumed common attributes for a bargain i. Free will no coercion ii. 2. Unilateral > Acceptance by performance Promise for an action ii. Reasons a court may not enforce: Emotional state, Intent (Promise made jokingly) **CONTRACTS OUTLINE** In contract law, a mistake is an erroneous belief, at contracting, that certain facts are true. Mistake can be- (1)Mistake of Law (2)Mistake of Fact contract, the essential purpose of the contract, there is the question of the assumption of the risk. been formed, since mutual assent is required in the formation stage of contract. **Frustration of purpose - Wikipedia** 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). **Contracts Outline I. WHAT IS A CONTRACT? II. OFFER AND** b. Consideration c. No defenses to formation. II. OFFER AND ACCEPTANCE. A. Why have expect reliance eral contract, offeree has started performance. 2. 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