

International Sales Terms

Professor Dr Patrick Ostendorf

Key points

- An up-to-date and practical guide to international sales terms.
- An invaluable source of information for commercial and financial law practitioners.

Description

This is a short practical guide to international sales terms, providing a handy guide for drafting typical sales agreement clauses. The introductory chapter provides a short introduction to the Convention on the International Sale of Goods and Swiss law with regard to legal issues not dealt with by the CISG (i.e. assignment, set-off, limitation periods, validity of the contract etc.) as well as differences in this regard compared to other major jurisdictions (in particular England and the U.S.). The introductory part also deals with more general points of concern with regard to international sales contracts (eg. US. and European export control regulations, international tax law issues etc.) and best practices regarding the incorporation of the terms into the contract (the battle of forms problem). The main part of the book contains the annotated international sales terms and conditions (inter alia Terms of Payment, Retention of Title, Delivery, Transfer of Risk, Conformity of the Contract Goods and Remedies in case of Non-conformity, Confidentiality, Limitation of Liability, Termination, Governing Law and Arbitration Clause). The contents of each clause and its effect in the context of the applicable law are separately discussed and analysed. When deemed appropriate, alternatives for the drafting of individual clauses are provided.

The Author

Dr Patrick Ostendorf is professor of business law at the University of Applied Studies Bielefeld.



Details

- February 2010
- 240mm x 169mm
- 180 pp
- Hardback
- 9781841133867
- £86
- €89

Main Subject Classification

Commercial and Financial Law

Other Subjects

General

Imprint

Beck/Hart

A joint imprint of Hart Publishing, Oxford (UK) and C.H. Beck, Munich (Germany)

This title did not appear in our 2010 catalogue



• HART •
PUBLISHING

Dalhuisen's Transnational Comparative, Commercial, Financial and Trade Law

3 VOLUME BOXED SET

Jan Dalhuisen

Key points

- This is the fourth edition of the leading work on transnational and comparative commercial and financial law, covering a wide range of complex topics in the modern law of international commerce, finance and trade.
- In a significant departure from earlier editions, the work is now divided into three volumes, each of which can be used independently or as part of the complete work.
- All three volumes may be purchased separately or as a single three volume boxed set.
- An unrivalled guide for students and practitioners.

Dalhuisen's Transnational Comparative, Commercial, Financial and Trade Law - Volume 1 **Introduction: The Transnationalisation of Commercial and Financial Law**

Volume one covers the introductory material - historical sources, legal systems, foundations of private law, the forces of transnationalisation and the development of the modern law merchant or *lex mercatoria* as a largely autonomous finance-driven event.

May 2010; 358pp; Hbk; 9781849460590; £35 / €45; 244mm x 171mm

Dalhuisen's Transnational Comparative, Commercial, Financial and Trade Law - Volume 2 **Contract and Movable Property Law**

Volume two deals with international contracts, payments, and moveable tangible and intangible property.

Jun 2010; 720pp; Hbk; 9781849460606; £50 / €65; 244mm x 171mm

Dalhuisen's Transnational Comparative, Commercial, Financial and Trade Law - Volume 3 **Financial Products, Financial Services and Financial Regulation**

Volume three deals with financial products, financial services and financial regulation, including the fall out from the recent financial crisis, as well as the structure and function of the modern investment banking system.

Sept 2010; 564pp; Hbk; 9781849460613; £55 / €71; 244mm x 171mm

The Author

Jan Dalhuisen is Professor of Law at King's College London.

4th Edition



3 VOLUME BOXED SET

- September 2010
- 1642pp
- Hbk
- 9781849460620
- £140
- €182

(Please note that the box set is titled:
Dalhuisen's Transnational, Comparative Commercial, Financial and Trade Law

**followed by the sub-title:
3 VOLUME BOXED SET)**

Main Subject Classification
Commercial and Financial Law
Other Subjects
International Trade Law

Review of previous editions

'...synthesizes and integrates diverse bodies of law into a coherent and accessible account...remarkable in its scope and depth.'

American Journal of Comparative Law



• HART •
PUBLISHING

The Law and Regulation of Central Counterparties

Jiabin Huang

Key points

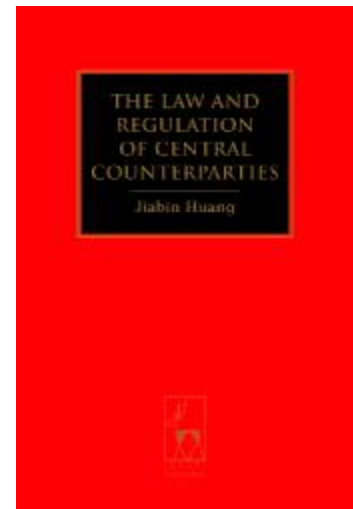
- A thorough examination of the legal and regulatory issues surrounding Central Counterparties.
- This is an international banking issue that will be of interest to commercial practitioners, city law firms and financial institutions.

Description

The Law and Regulation of Central Counterparties provides a detailed analysis of the legal and regulatory aspects of Central Counterparties (CCPs) with an introduction to their role and functions in modern financial markets. The book begins by describing in detail basic elements of modern post-trade infrastructure, exploring the modern functional and operational aspects of CCPs in the markets. It moves on to discuss the relationships between CCPs and their members, and clients of clearing members as non-members, legal issues concerning collateralisation, netting and set-off, and default arrangements that are primarily embedded in the form of the rules and regulations of CCPs. With regard to regulatory issues, the book examines the regulatory framework with reference to the UK and the EU. As to the case for a single CCP for various different types of markets, the analysis covers the advantages and disadvantages of CCP clearing and carries out an assessment of the risks and benefits of a single multi-market CCP.

The Author

Dr Jiabin Huang is a Compliance Officer at Mizuho International plc, in London.



Details

- June 2010
- 234mm x 156mm
- 264 pp
- Hardback
- 9781849460514
- £75
- €95

Main Subject Classification

Commercial and Financial Law



• HART •
PUBLISHING

The Advancement of International Law

Charles Leben

Key points

- The latest book in our French Studies in International Law series which aims to bring to the attention of an English-speaking audience the most important modern works by leading contemporary French and French speaking scholars of international law.
- This book will be of interest to international law and human rights law scholars.

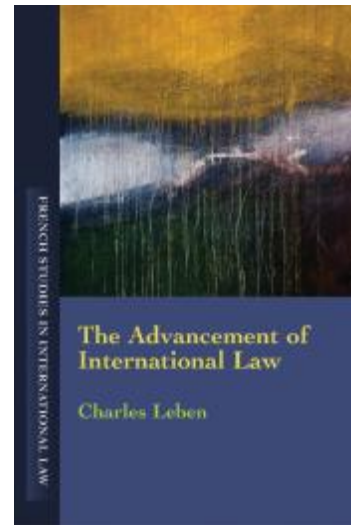
Description

Any talk of the advancement of international law presupposes that two objections are met. The first is the 'realist' objection which, observing the state of international relations today, claims that when it comes down to the important things in international life-war and peace, and more generally power politics among states-no real advancement has been made: international society remains a society of sovereign states deciding matters with regard solely to their own best interests and with international law all too often being no more than a thin cloak cast over the precept that 'might is right'. Against this excessive scepticism stands excessive optimism: international law is supposedly making giant strides forward thanks especially to the tremendous mass of soft law generated by international organisations over the past sixty years and more. By incautiously mixing all manner of customs, treaties, resolutions and recommendations, a picture of international law is painted that has little to do with the 'real world'.

The essays collected in this book are arranged into three sections. The first purports to show from the specific example of international investment law that the past half-century has seen the invention of two genuinely new techniques in positive law: state contracts and transnational arbitration without privity. This is 'advancement' in international law not because the techniques are 'good' in themselves (one may well think them 'bad') but because they have introduced legal possibilities into international law that did not exist heretofore. The second section examines the theoretical consequences of those new legal techniques and especially the way they affect the theory of the state. The third widens the field of view and asks whether European law has surpassed international law in a move towards federalism or whether it represents a step forward for international law. These reflections make for a clearer theoretical understanding of what constitutes true advancement in international law. Such an understanding should give pause both to those who argue that hardly any progress has been made, and to those who are overly fanciful about progress.

The Author

Charles Leben is Professor of Public International Law at the University of Paris (Panthéon-Assas) and Director of the Institute of Advanced International Studies (Paris).



Details

- June 2010
- 234mm x 156mm
- 362 pp
- Hardback
- 9781841132785
- £45
- €58.50

Main Subject Classification

Public International Law

Other Subjects

Human Rights

Series

French Studies in
International Law



• HART •
PUBLISHING

Human Rights, Constitutionalism and International Economic Law in the 21st Century

Ernst-Ulrich Petersmann

Key points

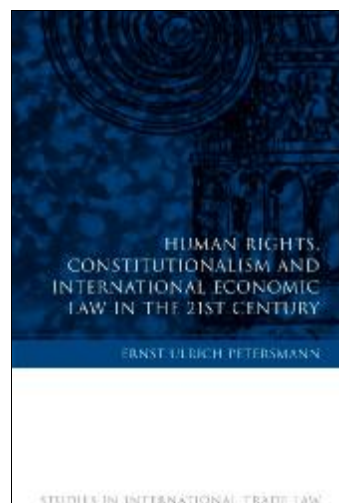
- Ernst-Ulrich Petersmann argues that there is an urgent need to 'civilise' the global economy by improving its human rights performance.
- The author is a widely admired and experienced academic, judge and policy maker in the field of international economic law.

Description

The state-centered paradigm of international law – the Westphalian model - has failed to deliver effective, universal, human rights protection, democratic peace, sustainable development and consumer welfare. Why? Despite the full weight of UN endorsement, human rights conventions and the Bretton-Woods agreements continue to treat citizens as mere objects of inter-state regulation, not as the main subject of human rights protection and of international economic cooperation. Ernst-Ulrich Petersmann, a widely admired and experienced academic, judge and policy maker in the field of international economic law, argues in this new book that there is a need to 'civilise' the global economy by improving its human rights performance. Worldwide economic regulation tends to lack reference to human rights, general consumer welfare, democratic citizen participation and the rule of law among citizens. The practical influence of national parliaments on intergovernmental rule-making is all too often marginal. In order to make global governance for the collective supply of 'global public goods' legitimate and effective, multilevel economic regulation must be designed and justified in terms of human rights and other 'principles of justice'. The bedrock of this move to civilise will be international law based on adequate 'constitutional safeguards'. By protecting the rule of international law based on respect for human rights, multilevel regulation of economic cooperation, and the observance of human rights standards among private, public, national, transnational and international institutions, progress is achievable.

The Author

Ernst-Ulrich Petersmann is Professor of International and European Law at the European University Institute at Florence.



Details

- June 2010
- 234mm x 156mm
- 264 pp
- Hardback
- 9781849460637
- £40
- €52

Main Subject Classification

International Trade Law

Other Subjects

Law and Economics

Human Rights

Series

Studies in International
Trade Law



• HART •
PUBLISHING

The Law of MERCOSUR

*Edited by Marcílio Toscano Franca Filho,
Lucas Lixinski and María Belén Olmos
Giupponi*

Key points

- A comprehensive and timely study of the common market of the south.
- Set to become the standard reference book in this area.
- Will be of interest to practitioners and academics interested in economic integration and international trade.

Description

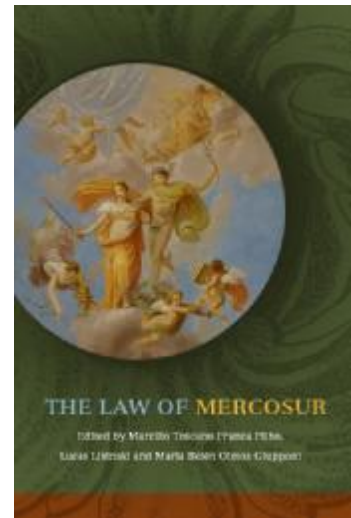
The Law of MERCOSUR presents both an overview and in-depth analysis of one of the world's most important and increasingly influential economic organisations. The book is comprised of two types of chapter: the first a series of first-hand analyses of the treaty by experts from countries in the MERCOSUR bloc, the second a series of discussions from other parts of the world looking at MERCOSUR as global actor of ever-increasing importance. The book divides the analysis into three main parts: the first one containing the key institutional legal aspects of MERCOSUR, looking at its history, the general theory of economic integration, and basic aspects relating to the functioning of MERCOSUR; the second examining 'specialised topics', such as the regulation of telecommunications in MERCOSUR, the environment, human rights, and the energy market (among other topics); and the third, in which the editors offer a translation of core MERCOSUR instruments, aimed at furthering understanding of the economic bloc. Original in its conception, the book covers a major gap in the English-language literature by offering a comprehensive and in-depth analysis of the Law of MERCOSUR, and will become essential reading for both practitioners and academics interested not only in MERCOSUR, but in economic integration generally, international trade, and regional aspects of the phenomenon of globalization.

The Editors

Marcílio Toscano Franca Filho is Professor of Public Law of the Institute of Higher Education of Paraiba (Brazil) and Attorney/Prosecutor in the Public Ministry at the Audit Court of Paraiba (Brazil).

Lucas Lixinski is currently a Ph.D. Researcher at the European University Institute (Florence, Italy).

María Belén Olmos Giupponi is an Assistant Professor of International Law and European Union Law at University Carlos III in Madrid (UC3M).



Details

- June 2010
- 244mm x 171mm
- 572 pp
- Hardback
- 9781841139432
- £80
- €104

Main Subject Classification

International Trade Law

Other Subjects

Law and Economics



• HART •
PUBLISHING

Select Proceedings of the European Society of International Law, Volume 2 2008

*Edited by H el ene Ruiz Fabri, R udiger Wolfrum
and Jana Gogolin*

Key points

- This volume presents the best papers from the ESIL meeting in 2008.
- A useful source of information for all scholars of international law.

Description

This book continues the series *Select Proceedings of the European Society of International Law*, containing the proceedings of the 3rd biennial conference organised by ESIL and the Max Planck Institute for Comparative Public Law and International Law in 2008. The conference was entitled 'International Law in a Heterogeneous World', reflecting an idea which is central to the ESIL philosophy. Heterogeneity is considered one of the pillars upon which Europe's contribution to international law is built and the subject was considered in a number of panels, including such diverse topics as migration, the history of international law, the rules on warfare and international environmental law.

Review of the First Edition

'... this volume contains a very useful, down-to-earth analysis of general conceptual aspects of international law... This volume is certainly to be recommended to anyone who wishes to follow up on the pertinent issues of the relationship between international law, national interest, and ideological traditions.'

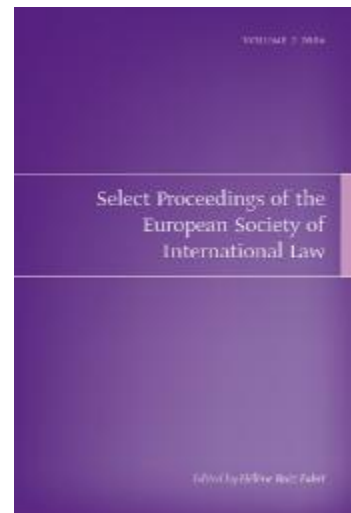
Alexander Orakhelashvili, *European Journal of International Law*

The Editors

H el ene Ruiz-Fabri is Professor of international law at the University of Paris I (Panth eon-Sorbonne). She is also Director of the Institute of Comparative Studies of Paris and President of the European Society of International Law.

R udiger Wolfrum is professor of international law at the University of Heidelberg and Director of the Heidelberg Max Planck Institute for Comparative Public Law and International Law.

Jana Gogolin is a Senior Research Fellow at the Max Planck Institute for Comparative Public Law and International Law.



Details

- June 2010
- 244mm x 171mm
- 684 pp
- Paperback
- 9781849460644
- £45
- €58

Main Subject Classification

Public International Law

Series

Proceedings of the
European Society of
International Law



• HART •
PUBLISHING

Studies in the History of Tax Law, Volume 4

Edited by John Tiley

Key points

- John Tiley is a leading tax law scholar and each essay is written by an expert in tax law.
- Will be of interest to students, scholars and practitioners who are interested in tax law and tax history.

Description

This work contains the full text of the papers presented at the fourth Tax Law History Conference in July 2008. The Conference was organised by the Cambridge Law Faculty's Centre for Tax Law.

The matters discussed are broad and include the extent to which charges levied by the Court of Wards were seen as taxes, the seventeenth century poll tax, traders, the excise and the in early nineteenth century England and the right of the Crown's right to elect between different heads of charge to income tax. There are also chapters on taxation in the reign of King John and Stamp Duties in the 18th Century.

International tax matters include a history of company residence and a paper on the first UK-Australia Double Tax Agreement. Papers concentrating on other countries include papers on the history of income tax in Malta (1641-1949), the history of land tax in Australia, the history of the legal definition of charity and its application to tax law and a paper on the psychology of taxation as shown by the 1936 US Election.

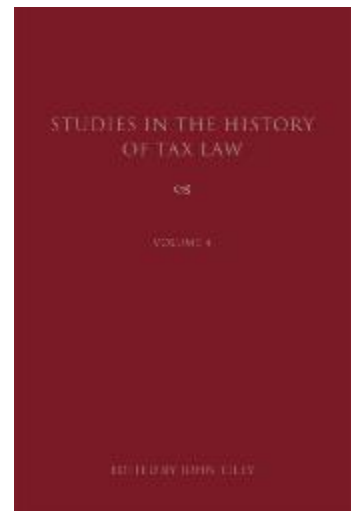
Reviews of volume 1

'They [the sixteen papers] are all, in their quite different ways, a good read, and they all provoke a desire to know more' Roger Kerridge, *Journal of Legal History*

'This book is an interesting addition to the tax debate. It provides some remarkable insights into the historical antecedents of the tax system under which we labour today...' Emer Hunt, *The Irish Jurist, Vol XL*

The Editor

John Tiley is a Life Fellow of Queens' College, Cambridge, and Emeritus Professor of the Law of Taxation.



Details

- June 2010
- 234mm x 156mm
- 268 pp
- Hardback
- 9781849460484
- £75
- €97.50

Main Subject Classification

Tax Law

Other Subjects

Legal History

Series

Studies in the History of Tax Law



• HART •
PUBLISHING

The Constitution of South Africa

A Contextual Analysis

Heinz Klug

Key points

- A critical and contextual understanding of the present state of the South African constitution.
- The book is written in an accessible style, with an emphasis on clarity and concision.
- Heinz Klug is well-placed to write on the constitution of South Africa.

Description

South Africa's 1996 'Final' Constitution is widely recognised as the crowning achievement of the country's dramatic transition to democracy. This transition began with the unbanning of the liberation movements and release of Nelson Mandela from prison in February 1990. This book presents the South African Constitution in its historical and social context, providing students and teachers of constitutional law and politics an invaluable resource through which to understand the emergence, development and continuing application of the supreme law of South Africa. The chapters present a detailed analysis of the different provisions of the Constitution, providing a clear, accessible and informed view of the constitution's structure and role in the new South Africa. The main themes include: a description of the historical context and emergence of the constitution through the democratic transition; the implementation of the constitution and its role in building a new democratic society; the interaction of the constitution with the existing law and legal institutions, including the common law, indigenous law and traditional authorities; as well as a focus on the strains placed on the new constitutional order by both the historical legacies of apartheid and new problems facing South Africa. Specific chapters address the historical context, the legal, political and philosophical sources of the constitution, its principles and structure, the bill of rights, parliament and executive as well as the constitution's provisions for cooperative government and regionalism. The final chapter discusses the challenges facing the Constitution and its aspirations in a democratic South Africa. The book is written in an accessible style, with an emphasis on clarity and concision. It includes a list of references for further reading at the end of each chapter.

The Author

Heinz Klug is Evjue-Bascom Professor of Law and Director of the Global Legal Studies Center at the University of Wisconsin Law School and an Honorary Senior Research Associate in the School of Law at the University of the Witwatersrand.



Details

- June 2010
- 216mm x 138mm
- 292 pp
- Paperback
- 9781841137377
- £16.95
- €22

Main Subject Classification

Constitutional &
Administrative Law

Other Subjects
Comparative Law

Series

Constitutional Systems
of the World



• HART •
PUBLISHING

Direct Investment, National Champions and EU Treaty Freedoms

From Maastricht to Lisbon

Frank S. Benyon

Key points

- The first book to examine the rules of direct investment in the EU.
- Recent developments, cases and debates are analysed and it also looks at the changes made to the applicable rules by the Treaty of Lisbon.
- This is a highly topical subject area for European law and commercial law practitioners.

Description

Within the EU, the legal dimension of trade in goods and, more recently, of trade in services have gained clear contours. This is less true for cross-border direct investments. Within the system of the fundamental freedoms, cross-border direct investments may fall within the scope of the freedom of establishment (Art.49 TFEU, 43EC), the free movement of capital (Art.63 TFEU, 56EC) and sometimes the freedom to provide services (Art.56 TFEU, 49EC). The free movement of capital has been the last fundamental freedom to be endowed with direct effect. The investment potential of Sovereign Wealth Funds makes this a very topical subject.

The ECJ has started to develop the full potential of the free movement of capital and the freedom of establishment only recently. This has raised a number of important new questions, including how broadly free movement of capital and freedom of establishment should be construed, and how the two freedoms relate to each other, and how to balance the individuals' rights to market access with the Member States' competence to regulate in the public interest. In particular, the use of state measures to protect strategic or alleged public interests selectively, or to foster national champions, will be considered. Under settled case law, it suffices that a measure renders the exercise of the freedom "less attractive" to find an infringement of the free movement rules. Potentially this opens the door for a broad review of the appropriateness of all non-harmonised mandatory rules contained in general national laws, including company laws. There is also a general question of when free movement of capital and freedom of establishment may have horizontal effect, a matter which was raised by the Viking case. Horizontal application of the fundamental freedoms could lead to the exercise of control over private arrangements in many areas, including company law if they have a tendency to impede, or dissuade, market access by investors from other Member States. The particular situation of third country investors also has to be considered, insofar as they may benefit from the free movement of capital but not from the establishment and services freedoms.

Recent developments in EU company law are discussed, notably those concerning simple cross-border relocation of businesses as well as those regulating take-over and mergers. Overall the book analyses the role of the market and the role of the state with regard to direct investment, delineates the competences of the EU and the Member States in this field and places the debate in the larger context of international direct investment. Focussing on recent developments, cases and debates, the book also looks at the changes made to the applicable rules by the Treaty of Lisbon, including the inclusion of foreign direct investment into the Community's common commercial policy, thus providing an overview of this cutting-edge issue and a reflection on the rationales that should guide the evolution of this field of law.

Details

- July 2010
- 234mm x 156mm
- 117 pp
- Hardback
- 9781849461085
- £45
- €58.50

Main Subject Classification

European Law

Other Subjects
Commercial and
Financial Law

Series

Modern Studies in
European Law

**This title did not
appear in our
2010 catalogue**

The Author

Frank Benyon has been a Director in the European Commission's Legal Service since 2000 in charge of the Business Law Team dealing with Establishment, Capital and Services freedoms, in particular in the banking, telecommunications and transport sectors. After university he qualified as a solicitor and practiced with Allen and Overy before becoming a partner with Clifford Chance, working successively in their Brussels, Dubai and Paris offices.



• HART •
PUBLISHING

The Funding and Costs of Litigation

A Comparative Perspective

*Edited by Christopher Hodges,
Stefan Vogenauer, and Magdalena Tulibacka*

Key points

- A comparative series of reports analysing litigation costs and methods of funding litigation.
- The analysis presented was linked with the Jackson Costs Review in England.
- A unique and invaluable study that will be of interest to academics, practitioners and specialists in litigation.

Description

This book is the first major comparative study of litigation costs and methods of funding litigation. It contains national chapters contributed by scholars in 19 jurisdictions (Australia, Belgium, Canada, China, Denmark, England & Wales, France, Germany, Italy, Japan, the Netherlands, New Zealand, Poland, Portugal, Russia, Spain, Switzerland, Taiwan and USA) and a further chapter on Latin American jurisdictions. These describe the principles and rules that relate to paying courts, witnesses and lawyers, and the rules on cost shifting, if any. They also note the major ways in which litigation can be funded, identifying the global trend on contraction of legal aid, the so far limited spread of contingency fees, and the growing new phenomenon of private third party litigation funding. The book also contains the results of nine case studies of typical claim types, so as to give a first overview comparison of which countries' legal systems are cheaper or more expensive. This analysis was assisted by leading practitioners in around 50 jurisdictions, and was linked with the Jackson Costs Review in England.

The Editors

Christopher Hodges is Head of the CMS Research Programme on Civil Justice Systems at the Centre for Socio-Legal Studies, University of Oxford.

Stefan Vogenauer is Professor of Comparative Law and Director of the Institute of European and Comparative Law, University of Oxford, and a Fellow of Brasenose College.

Magdalena Tulibacka is a Senior Lecturer at the University of Westminster and an Associate Research Fellow at the Centre for Socio-Legal Studies, University of Oxford.

Details

- July 2010
- 234mm x 156mm
- 200 pp
- Hardback
- 9781849461023
- £45
- €58

Main Subject Classification

Litigation &
Civil Procedure

**This title did not
appear in our
2010 catalogue**



• HART •
PUBLISHING