13. Dispositive Powers

All books in this flagship series contain carefully selected substantial extracts from key cases, legislation, and academic debate, providing able students with a stand-alone resource. This chapter begins with a definition of the nature of dispositive powers and duties and how they relate to the distribution of trust property to beneficiaries or objects. They are sometimes referred to as ‘beneficial’ powers and duties. It is hard to draw the distinction between dispositive and administrative powers and duties, but it is a necessary distinction since different rules relate to administrative and dispositive powers and duties. Trustees may have various powers relating to the appointment of trust property to beneficiaries, and there are various consequences of a dispositive power not being exercised. These include liability for breach of trust and the court’s exercising the power instead. Sometimes the trustees may be authorized by the court to exercise the power late.