15. Variation of Trusts

Equity & Trusts: Text, Cases, and Materials (3rd edn)
Paul S. Davies and Graham Virgo

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 shows how a variation of trust occurs in cases where all the beneficiaries of a trust are of full age, under no disability, and in agreement to terminate the trust and resettle the trust property on a new trust, varying the original trust. In cases of necessity, the court has an exceptional inherent jurisdiction to vary a trust. The Variation of Trusts Act 1958 enables the court to consent to the variation of a trust on behalf of certain actual or potential beneficiaries who are unable to consent to the variation. The Act enables the revocation of an existing trust and establishment of a new trust, but only where the new trust can be regarded in substance as similar to the old trust.
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