Each Concentrate revision guide is packed with essential information, key cases, revision tips, exam Q&As, and more. Concentrates show you what to expect in a law exam, what examiners are looking for, and how to achieve extra marks. This chapter examines the law’s response to events that render performance of the contract impossible for reasons beyond the control of the contracting parties, and so provide an excuse for non-performance. The default legal doctrines—common mistake (initial impossibility) and frustration (subsequent impossibility)—may come into play in instances of impossibility of performance only where there is no express or implied allocation of the risk of the event in the contract. These default doctrines determine what is to happen to the existing and future obligations of the parties.
8. Contractual impossibility and risk: frustration and common mistake