11. Undue influence

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Titles in the Core Text series take the reader straight to the heart of the subject, providing focused, concise, and reliable guides for students at all levels. This chapter examines undue influence in a contract, which is a vitiating factor and also a ground of restitution. It explains that undue influence is hard to define and can more easily be recognised when found than exhaustively analysed in the abstract. This chapter investigates how undue influence is proved by means of a rebuttable presumption based on a relationship of trust and confidence coupled with a transaction that calls for an explanation, and how the resulting presumption is rebutted. It then covers the remedy of rescission for undue influence. Finally it explores undue influence in three party cases, where relief depends on whether the contracting party had notice, actual or constructive, of the undue influence and whether it had taken reasonable steps.
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