



2023 UNIT SPECIFICATION

Title:	(Unit 2) Contract Law
Level:	3
Credit Value:	7

Learning outcomes	Assessment criteria	Knowledge, understanding and skills
The learner will:	The learner can:	
<p>1. Understand the concept of contract</p>	<p>1.1 Define a contract</p> <p>1.2 Explain the legal requirements for the formation of an enforceable contract</p> <p>1.3 Explain the factual indicators of the existence of agreement</p> <p>1.4 Explain who can enforce a contract</p>	<p>1.1 A contract is an agreement giving rise to obligations which can be enforced or recognised by law; unilateral and bilateral contracts.</p> <p>1.2 Offer and acceptance (agreement), intention, consideration.</p> <p>1.3 Offer and acceptance.</p> <p>1.4 Doctrine of privity: only the parties to a contract can sue or be sued on it, e.g.: <u>Tweddle v Atkinson</u> (1861) and <u>Dunlop v Selfridge</u> (1915). The exceptions in the Contracts (Rights</p>

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	<p>2.3 Explain the requirements of communication of offer</p> <p>2.4 Describe how an offer is terminated</p> <p>2.5 Explain the nature and effect of counter offer</p> <p>2.6 Explain how, and in what circumstance, the lapse of time may terminate an offer</p> <p>2.7 Explain the nature of, and requirements for, withdrawal (revocation) of offer</p>	<p><u>Pharmaceutical Society of Great Britain v Boots Cash Chemists (Southern) Ltd (1953).</u></p> <p>2.3 The offer must be communicated to the offeree: <u>Taylor v Laird (1856).</u></p> <p>2.4 Acceptance, rejection (including counter-offers), withdrawal (revocation), rejection and lapse of time.</p> <p>2.5 Counter offer destroys original offer: <u>Hyde v Wrench (1840).</u> Differences between a counter-offer and a request for information: <u>Stevenson, Jacques Co v McLean (1880).</u> Only the original offeror can reinstate the original offer.</p> <p>2.6 Offer for a limited period expires at the end of the period; if no period is stated offer lapses after a reasonable time. Court decides what is reasonable on all the facts of the case: <u>Ramsgate Victoria Hotel v Montefiore (1866).</u></p> <p>2.7 Withdrawal of offer by offeror must be done before acceptance by the offeree: <u>Payne v Cave (1789);</u> must be communicated: <u>Byrne v van Tienhoven (1880),</u> even if by a reliable third-party: <u>Dickinson v Dodds (1876).</u> Withdrawal of an offer to enter a unilateral contract: <u>Errington v Errington & Woods (1952).</u></p>
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	<p>2.8 Describe a valid acceptance of an offer</p> <p>2.9 Explain the rules governing communication of acceptance and the exceptions to that rule</p> <p>2.10 Describe the courts' approach to negotiations, standard form contracts and the 'battle of the forms'</p>	<p>2.8 The final and unqualified assent to all the terms of an offer. The acceptance must 'mirror' the offer. Acceptance of the offer amounts to agreement - <i>consensus ad idem</i>. Acceptance of an offer to enter into a unilateral contract.</p> <p>2.9 The basic rule: acceptance must be communicated to offeror.</p> <p>The offeror cannot stipulate that silence is valid acceptance: <u>Felthouse v Bindley</u> (1862).</p> <p>Acceptance by instantaneous modes of communication: <u>Entores Ltd v Miles Far East Corporation</u> (1955) and <u>Brinkibon v Stahag Stahl</u> (1983).</p> <p>Exceptions to the communication rule:</p> <ul style="list-style-type: none"> • offeror may waive need for communication: <u>Carlill v Carbolic Smoke Ball Co</u> (1892); • the postal rule: <u>Adams v Lindsell</u> (1818). <p>The time of the formation of the contract: the postal rule & reg. 11 Electronic Commerce (EC Directive) Regulations 2002.</p> <p>2.10 Clarification of the terms of the offer: <u>Stevenson, Jacques & Co v McLean</u> (1880). The "battle of the forms": <u>Butler Machine Tool Ltd v Ex-Cell-O Corp (England) Ltd</u> (1979).</p>
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	2.11 Apply an understanding of the rules for establishing a valid offer and acceptance to a given situation	2.11 Application to a scenario.
3. Understand the concept of consideration in contract	<p>3.1 Define consideration</p> <p>3.2 Explain the rules governing what amounts to valid consideration</p>	<p>3.1 Definition of consideration: a benefit to the promisor or a detriment to the promisee: <u>Currie v Misa</u> (1875); or the price for which the other party's promise is bought: <u>Dunlop v Selfridge</u> (1915). The types of consideration: executed and executory.</p> <p>3.2 The rules of consideration:</p> <ul style="list-style-type: none"> • Consideration must move from the promisee: <u>Dunlop v Selfridge</u> but not necessarily to the promisor – relevance of doctrine of privity of contract: <u>Tweddle v Atkinson</u> (1861) - Contracts (Rights of Third Parties) Act 1999; • Past consideration is not good consideration: <u>Re McArdle</u> (1951). Exception where act done at request of promisor; understood that payment would be made; and payment otherwise legally recoverable, e.g. <u>Lampleigh v Braithwait</u> (1615), <u>Re Casey's Patents</u> (1892). • Consideration must be sufficient: <u>Thomas v Thomas</u> (1842). • Consideration need not be adequate: <u>Chappell v Nestlé</u> (1960). <p>Rules relating to performance of an existing duty:</p>

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		<p>i) Performance of an existing public duty is not good consideration: <u>Collins v Godefroy</u> (1831) unless promise goes beyond what they are bound to do: <u>Harris v Sheffield United FC Ltd</u> (1988).</p> <p>ii) Performance of an existing contractual duty is not generally good consideration: <u>Stilk v Myrick</u> (1809) unless additional duties have been performed: <u>Hartley v Ponsonby</u> (1857). However, the performance of an existing duty may be good consideration for a promise of extra payment if the promisor derives a practical benefit from its performance and the promise has been secured without duress or fraud: <u>Williams v Roffey Bros</u> (1991).</p> <p>Part payment of debts: the rule in <u>Pinnel's Case</u> (1602). Exceptions to the rule in Pinnel's Case:</p> <ul style="list-style-type: none"> • payment before the debt is due at creditor's request • payment using something different where accepted by the creditor, • disputed claims, • unliquidated claims, • composition agreements, • payment by third-party <p>iii) Existing contractual duty to a third party, e.g. <u>Scotson v Pegg</u> (1861).</p>
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	3.3 Apply an understanding of consideration to a given situation	3.3 Application to a scenario.
4. Understand the rules for determining a party's intention to enter into a contract	<p>4.1 Explain how an intention to enter into an agreement might be determined</p> <p>4.2 Explain the presumption in social and domestic situations</p> <p>4.3 Explain how the presumption in social and domestic situations may be rebutted</p> <p>4.4 Explain the presumption in commercial situations</p> <p>4.5 Explain how the presumption may be rebutted in commercial situations</p> <p>4.6 Apply an understanding of the rules for determining intention to a given situation</p>	<p>4.1 The meaning and use of rebuttable presumptions.</p> <p>4.2 The presumption is that there is no intention to contract in social and domestic situations: <u>Jones v Padavatton</u> (1969).</p> <p>4.3 The presumption can be rebutted in the case of separated or divorcing spouses: <u>Merritt v Merritt</u> (1970), or in social situations where a practical benefit has been obtained or party at a disadvantage: <u>Simpkins v Pays</u> (1955).</p> <p>4.4 The presumption is that there is an intention to create legal relations: <u>Edmonds v Lawson</u> (2000).</p> <p>4.5 Exceptions to the presumption in commercial situations including: "Subject to contract" Honour clauses: <u>Rose & Frank v J R Crompton</u> (1925).</p> <p>4.6 Application to a scenario.</p>

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<p>5. Understand how terms are incorporated into a contract</p>	<p>5.1 Explain the meaning of ‘representation’</p> <p>5.2 Distinguish a mere representation from a term of the contract</p> <p>5.3 Identify express terms of a contract</p> <p>5.4 Explain how written terms (in particular exclusion clauses) may be incorporated into the contract</p>	<p>5.1 Statements normally made outside the contract which may induce a party to enter into the contract but which do not constitute a term of the contract. This can include ‘mere puffs’.</p> <p>5.2 Factors considered by the courts:</p> <ul style="list-style-type: none"> • Importance attached to representation: <u>Bannerman v White</u> (1861), • Reduction into writing: <u>Birch v Paramount Estates Ltd</u> (1956), • Passage of time between statement and entering into the contract: <u>Routledge v McKay</u> (1954), • The specialist skills of the statement-maker: <u>Oscar Chess v Williams</u> (1957). <p>5.3 Terms that are distinctly or overtly stated rather than implied. Terms that are agreed by the parties.</p> <p>5.4 Have the terms been incorporated by;</p> <p>(a) signature: <u>L’Estrange v Graucob</u> (1934); <u>Curtis v Chemical Cleaning & Dyeing Co</u> (1951)</p> <p>(b) notice: <u>Olley v Marlborough Court Ltd</u> (1949); <u>Parker v South Eastern Railway</u> (1877), <u>Thornton v Shoe Lane Parking</u> (1971), <u>Chapelton v Barry UDC</u> (1940)</p> <p>(c) course of dealing: <u>Hollier v Rambler Motors</u> (1972);</p>
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	<p>5.5 Explain how terms may be implied by statute</p> <p>5.6 Explain how terms are implied by custom</p> <p>5.7 Explain how terms are implied by the courts</p>	<p>(d) common understanding of the parties: <u>British Crane Hire Corp Ltd v Ipswich Plant Hire (1975)</u>.</p> <p>Onerous clauses must be drawn to the attention of the other party: <u>Interfoto Picture Library v Stiletto Visual Programmes Ltd (1988)</u>.</p> <p>5.5 Business contracts: terms implied under ss.13, 14 (2), 14(3) of the Sale of Goods Act 1979; and ss.3 and 4, and ss.13, 14 and 15 Supply of Goods and Services Act 1982.</p> <p>Consumer contracts: Consumer Rights Act 2015, scope of Part 1, meaning of “consumer” and “trader”; implied terms in consumer contracts: ss. 9, 10 & 11 (supply of goods), ss. 34, 35 & 36 (supply digital content) and ss. 49, 50, 51 & 52 (supply of services).</p> <p>5.6 Implied by the custom of location or trade practice; criteria for implying a term by custom: long duration, reasonable and not inconsistent with an express term; for implying by trade use: existence of usage and it is acceptable to the court.</p> <p>5.7 Terms implied by law as a matter of policy: <u>Liverpool City Council v Irwin (1976)</u>. Terms implied on the particular facts: the business efficacy test: <u>The Moorcock (1889)</u>.</p>
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		<p>the officious bystander test: <u>Shirlaw v Southern Foundries (1926) Ltd (1939)</u> - the requirement for the bystander to say 'oh of course'.</p>
	<p>5.8 Apply an understanding of contractual terms to a given situation</p>	<p>5.8 Application to a scenario.</p>
<p>6. Understand the classification of different provisions of a contract, and the implication of categorisation</p>	<p>6.1 Define a condition</p> <p>6.2 Define warranty</p> <p>6.3 Define an innominate (intermediate) term</p> <p>6.4 Apply an understanding of the classification of innominate terms, warranties and conditions to a given situation</p>	<p>6.1 Term going to the root of the contract. Effect of breach: the innocent party may treat contract as terminated (contract can continue if innocent party wishes) and claim damages: <u>Poussard v Spiers & Pond (1876)</u>.</p> <p>6.2 Less important term. Effect of breach: the innocent party may claim for damages only and acquires no right to terminate the contract: <u>Bettini v Gye (1876)</u>.</p> <p>6.3 Cannot be classified at time of formation of contract. Effect of breach depends how serious the results of the breach are: <u>Hong Kong Fir Shipping v Kawasaki Kisen Kaisha (1962)</u>.</p> <p>6.4 Application to a given scenario.</p>

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<p>7. Understand misrepresentation and its consequences</p>	<p>7.1 Identify what constitutes misrepresentation</p> <p>7.2 Explain the different types of misrepresentation</p> <p>7.3 Explain the effects of the Misrepresentation Act 1967 on actions for negligent and innocent misrepresentation</p>	<p>7.1 Untrue statement of fact or law made by one party to the other, inducing the other to enter the contract; must be actual and reasonable reliance on the misrepresentation. Must not be statement of opinion, intention or trade puff. Non-disclosure: silence does not normally amount to a misrepresentation but note:</p> <ul style="list-style-type: none"> i. Consumer Protection from Unfair Trading Regulations 2008; ii. Half-truths: <u>Nottingham Patent Brick & Tile Co v Butler (1866)</u>; iii. Subsequent falsity: <u>With v O’Flanagan (1936)</u>; iv. Contracts of the utmost good faith; v. Fiduciary relationships. <p>Voluntary assumption of responsibility.</p> <p>7.2 Fraudulent: <u>Derry v Peek (1889)</u>;</p> <p>Negligent (under s.2(1) of the Misrepresentation Act 1967): <u>Howard Marine & Dredging Co Ltd v Ogden & Sons Ltd (1978)</u>; and</p> <p>Innocent (i.e. not falling within s.2(1) of the Misrepresentation Act)</p> <p>7.3 Ss. 2(1) and 2(2) Misrepresentation Act 1967.</p>
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	<p>7.4 Explain the remedies available in respect of misrepresentation</p> <p>7.5 Apply an understanding of misrepresentation to a given situation</p>	<p>7.4 i. Fraudulent misrepresentation: rescission and/or damages in tort of deceit; ii. Negligent misrepresentation: rescission and damages under Misrepresentation Act 1967, s.2(1), based on tort of deceit: <u>Royscot Trust v Rogerson</u> (1991); effect of Misrepresentation Act 1967, s.2(4) iii. Innocent misrepresentation: rescission.</p> <p>Bars to rescission: affirmation; lapse of time; parties cannot be restored to previous positions; acquisition of rights by an innocent third party; effect of Misrepresentation Act 1967, s.2(2) – damages in lieu of rescission.</p> <p>7.5 Application to a scenario.</p>
<p>8. Understand the ways in which a contract might be discharged</p>	<p>8.1 Explain how a contract may be discharged by performance</p>	<p>8.1 Both parties do what they are contracted to do. The entire performance rule: <u>Cutter v Powell</u> (1795)</p> <p>Mitigation of the rule:</p> <ul style="list-style-type: none"> i. Acceptance of partial performance; ii. Substantial performance: <u>Hoenig v Isaacs</u> (1952) but consider: <u>Bolton v Mahadeva</u> (1972); iii. One party prevents performance: <u>Planché v Colburn</u> (1831); iv. Divisible or severable contracts; and vi. Breach of terms concerning time and whether or not time is 'of the essence'.

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	<p>8.2 Explain how a breach of a condition entitles the innocent party to repudiate the contract</p> <p>8.3 Explain how parties might agree to the discharge of a contract</p> <p>8.4 Explain how a contract may be discharged by frustration</p>	<p>8.2 See <u>Poussard v Spiers & Pond</u> (1876). Distinguish breach of a warranty, <u>Bettini v Gye</u> (1876).</p> <p>8.3 Accord and satisfaction – the agreed release of an obligation (accord) supported by consideration (satisfaction) (which often takes the form of the other party being released from their obligation).</p> <p>8.4 An event which is the fault of neither party, rendering the contract impossible or illegal to perform or undermining its commercial purpose.</p> <p>Frustrating events, including:</p> <ul style="list-style-type: none"> i. Destruction of subject-matter: <u>Taylor v Caldwell</u> (1863); ii. Illness/death of a party: <u>Condor v Barron Knights</u> (1966); iii. Supervening illegality: <u>Fibrosa Spolka Akcyjna v Fairborn Lawson Combe Barbour Ltd</u> (1943); iv. Event, the sole reason for the contract, does not take place: <u>Krell v Henry</u> (1903); <p>Non-frustrating events including:</p> <ul style="list-style-type: none"> i. Events anticipated and provided for; ii. Events making contract more onerous/expensive; iii. Self-induced frustration. <p>Effect of frustration at common law.</p>
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	<p>8.5 Explain statutory interventions relating to frustrated contracts</p> <p>8.6 Apply an understanding of the ways in which a contract may be discharged to a given situation</p>	<p>8.5 Statutory intervention: Law Reform (Frustrated Contracts) Act 1943: s.1(2) payments made are refundable, monies owing are not payable, court may allow reasonable expenses to be deducted: <u>Gamerco S.A. v I.C.M</u> (1995).</p> <p>8.6 Application to a scenario.</p>
<p>9. Understand the remedies available where a contract has been breached</p>	<p>9.1 Identify the remedies available when a contract has been breached</p> <p>9.2 Explain the purpose and meaning of damages in contract</p>	<p>9.1 Damages (common law) Injunction; and Specific performance (equitable).</p> <p>Additional rights and remedies under the Consumer Rights Act 2015:</p> <ul style="list-style-type: none"> • Goods: short term right to reject (s.22), right to repair or replacement (s.23) and right to price reduction or final right to reject (s.24). • Digital media: right to repair or replacement (s.43), right to a price reduction (s.44), right to a refund (s.45) and remedy for damage to device or to other digital content (s.46). • Services: right to repeat performance (s.55) and right to price reduction (s.56). <p>9.2 Monetary compensation aimed at putting the innocent party in position he would have been had the contract been properly performed: <u>Robinson v Harman</u> (1848).</p>

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	<p>9.3 Explain the requirements for claiming damages</p> <p>9.4 Explain, in outline, heads of damages</p> <p>9.5 Explain the remedies of specific performance and injunction</p>	<p>9.3 The claimant needs to show:</p> <p>(a) the breach caused the loss: <u>Galoo v Bright Grahame Murray</u> [1994]</p> <p>(b) the loss was not too remote: <u>Hadley v Baxendale</u> (1854), <u>Victoria Laundry (Windsor) Ltd v Newman Industries Ltd</u> (1949), <u>The Heron II</u> (1969), <u>Transfield Shipping v Mercator Shipping (The Achilleas)</u> (2008).</p> <p>The defendant may seek to show that the innocent party has failed to mitigate the losses claimed: <u>British Westinghouse Electric v Underground Electric Railways</u> (1912)</p> <p>9.4 Explanation of:</p> <ul style="list-style-type: none"> damages for non-pecuniary loss: loss of enjoyment, inconvenience, distress: <u>Jarvis v Swans Tours Ltd</u> (1973), <u>Farley v Skinner No. 2</u> (2001); damages for pecuniary loss: reliance loss: <u>Anglia TV v Reed</u> (1972); expectation loss (cost of cure, cost of replacement etc): <u>Ruxley Electronics and Construction Ltd v Forsyth</u> (1996), loss of bargain; consequential loss. <p>9.5 Definitions of the remedies; equitable nature of the remedies, discretionary, granted where damages inadequate; outline of criteria used when granting these remedies.</p>
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	9.6 Apply an understanding of remedies available to a given situation	9.6 Application to a scenario.
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Additional information about the unit	
Unit aim(s)	The learner will understand key concepts, terms and processes in the area of Contract Law
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards; specifically, Unit 47 First Line Consumer Legal Advice and Unit 48 Consumer Legal Advice and Casework
Details of the relationship between the unit and other standards or curricula (if appropriate)	Courses of study leading towards the achievement of the unit may offer the learner the opportunity to satisfy requirements across a number of Level 3 Key Skill areas; most specifically, Communication, improving own learning and performance, Problem solving and Working with others
Assessment requirements specified by a sector or regulatory body (if appropriate)	N/A
Endorsement of the unit by a sector or other appropriate body (if required)	N/A
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	CILEx (The Chartered Institute of Legal Executives)
Availability for use	Only available to owning awarding body
Availability for delivery	1 September 2013

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