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| Title | Contract Law | |
| Level | 4 | |
| Credit value | 11 | |
| Learning outcomes | Assessment criteria | Knowledge, understanding and skills |
| The learner will: | The learner can: | |
| 1 Understand the law on the formation of contract | 1.1 Define a contract | 1.1 A contract is an agreement giving rise to obligations which are enforced or recognised by law |
| | 1.2 Explain the law on the fact of agreement | 1.2 The law on formation: the requirement of agreement; the factual indicators of agreement – offer and acceptance; distinguishing unilateral from bilateral agreements; distinguishing offer from invitation to treat; where offer and acceptance have not been adequate to the task of finding agreement, e.g., <i>Clarke v Dunraven</i> , <i>The Satanita (1895)</i> ; relevant case law: e.g., <i>Pharmaceutical Society of Great Britain v Boots Chemists (1952)</i> , <i>Partridge v Crittenden (1968)</i> , <i>Carlill v Carbolic Smoke Ball Co (1893)</i> ; distinguishing counter-offer from request for further information and effect of each, e.g. <i>Hyde v Wrench (1840)</i> , <i>Stevenson, Jaques, & Co v McLean (1880)</i> |

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| | <p>1.3 Analyse the law on the intention to create legal relations</p> | <p>1.3 An explanation of: the law on intention: the presumption in social and domestic situations and how that presumption may be rebutted: relevant case law, e.g., <i>Balfour v Balfour (1919)</i>, <i>Merritt v Merritt (1970)</i>, <i>Simpkins v Pays (1955)</i>; the presumption in commercial situations and how that presumption may be rebutted; relevant case law, e.g., <i>Rose & Frank v Compton (1925)</i></p> |
| | <p>1.4 Explain the law of consideration in contract</p> | <p>1.4 An explanation of the law of consideration: definition of consideration: see <i>Dunlop v Selfridge (1915)</i> (HL); rules setting out the limits to consideration: consideration must move from the promisee, but not necessarily to the promisor; past consideration is no consideration: relevant case law: e.g., <i>Re McArdle (1951)</i>; performance of an existing duty is not good consideration: relevant case law: e.g., <i>Stilk v Myrick (1809)</i>, <i>Hartley v Ponsonby (1857)</i>; see also <i>Williams v Roffey & Nicholls (Contractors) (1990)</i> and <i>Re Selectmove (1995)</i>; the rule on part payment of a debt: see the rule <i>Pinnel's Case (1602)</i> and its exceptions: relevant case law: e.g., <i>Pinnel's Case (1602)</i>, <i>Hirachand Punamchand v Temple (1911)</i>; promissory estoppel: see <i>Central London Properties Trust v High Trees House (1947)</i> and subsequent relevant case law</p> |

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| | 1.5 Analyse the law on the formation of contract | 1.5 Analysis of the law of formation: the phenomenon of agreement and its communication: the effectiveness of the use of offer and acceptance as indicators of subjective states of mind; other approaches to finding agreement: e.g., <i>Butler Machine Tools v Ex-Cell-O Corporation (1979)</i> ; the nature and quality of the rules of offer, acceptance, and revocation |
| | 1.6 Explain the rules of communication of offer, acceptance, and revocation | 1.6 An explanation of the law on communication; relevant case law: e.g., <i>Taylor v Laird (1856)</i> , <i>Carlill v Carbolic Smoke Ball Co. (1893)</i> , <i>Adams v Lindsell (1818)</i> , <i>Brinkibon v Stahag Stahl und Stahlwarenhandels-gesellschaft (1983)</i> |
| | 1.7 Analyse who can enforce a contract | 1.7 Doctrine of privity: e.g., <i>Tweddle v Atkinson (1861)</i> and <i>Dunlop v Selfridge (1915)</i> , and the Contracts (Rights of Third Parties) Act 1999 (ie, ss1(1)(a) and (b); s1(2)); the common law rules of incorporation and interpretation of exclusion and limitation clauses; in business contracts the main provisions of the Unfair Contract Terms Act 1977; their effect upon the validity of exemption clauses; in consumer contracts the main provisions of the Consumer Rights Act 2015; their effect upon the validity of exemption clauses; relevant case law: e.g., <i>L'Estrange v Graucob (1934)</i> , <i>Olley v Marlborough Court Hotel (1949)</i> , <i>Spurling v Bradshaw (1956)</i> , <i>Chapelton v Barry UDC (1940)</i> , <i>Andrews v Singer (1934)</i> , <i>White v John Warwick (1953)</i> , <i>Suisse Atlantique Societe D'Armement Maritime v Rotterdamsche Kolen Centrale (1967)</i> |

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| | 1.8 Apply the law on the formation of contract to a given situation | 1.8 Application of the law to a complex scenario |
| 2 Understand the law governing terms of contract | 2.1 Explain the law governing terms of contract | 2.1 An explanation of: the law governing contractual terms: representations distinguished from terms: relevant case law e.g., <i>Bannerman v White (1861)</i> , <i>Routledge v McKay</i> , <i>Birch v Paramount Estates Ltd (1956)</i> ; express terms distinguished from implied terms; statutory methods of implying terms: ss 2, 9, 10, 11, 13, 14, 34, 35, 36, 49, 51, 52 of Consumer Rights Act 2015; terms implied by custom of location or trade practice; criteria for implying a term by custom: common law devices for implying terms – terms implied by fact: the business efficacy test: see <i>The Moorcock (1889)</i> ; the officious bystander test: see <i>Shirlaw v Southern Foundries (1926) Ltd (1939)</i> ; recent authority including Marks and Spencer plc v BNP Paribas (2015); terms implied by common law, e.g., <i>Liverpool CC v Irwin (1976)</i> , <i>Scally v Southern Health & Social Services Board (1992)</i> , <i>Equitable Life Assurance v Hyman (2002)</i> ; the status of terms: distinguish conditions, warranties and innominate terms: see, e.g., <i>Poussard v Spiers & Pond (1876)</i> , <i>Bettini v Gye (1876)</i> , <i>Hong Kong Fir Shipping v Kawasaki Kisen Kaisha (1962)</i> |

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| | 2.2 Analyse the law governing terms of contract | 2.2 Analysis and assessment of the rules for distinguishing representation from term; the effect of classification as mere representation or as a term; devices for implying terms; the relationship between express and implied terms; the tests for determining the status of terms as conditions, warranties or innominate terms; judicial and academic opinion |
| | 2.3 Explain how terms are implied by custom | 2.3 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 |
| | 2.4 Apply the law governing terms of contract to a given situation | 2.4 Application of the law to a complex scenario. |
| 3 Understand the law of misrepresentation | 3.1 Explain the law of misrepresentation | 3.1 An explanation of the law of misrepresentation: untrue statement of fact made by one party to the other, inducing the other to enter the contract; requirement of actual and reasonable reliance on the misrepresentation; distinguishing types of misrepresentation: fraudulent, negligent (under the Misrepresentation Act 1967) and innocent misrepresentation: see ss 2(1) and (2) Misrepresentation Act 1967; relevant case law: e.g., <i>Howard Marine & Dredging Co Ltd v Ogden & Sons (Excavations) Ltd (1978)</i> ; remedies available in respect of innocent, negligent, and fraudulent misrepresentation; tortious nature of damages in misrepresentation; rules of remoteness of damage in misrepresentation; relevant case law: e.g., <i>Royscot Trust v Rogerson (1991)</i> , <i>Naughton v O'Callaghan (1990)</i> , <i>Smith New Court Securities v Scrimgeour Vickers (1996)</i> |

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| | 3.2 Analyse the law of misrepresentation | 3.2 Analysis of tortious nature of misrepresentation, the influence of this upon remedies; the rules of remoteness of damage in misrepresentation, and the comparison and contrast of them with the rules of remoteness of damage in contract; comparison and contrast of damages in misrepresentation and in contract; identification of the tactical advantages in an action in negligent misrepresentation and comparison and contrast of them with an action in contract |
| | 3.3 Apply the law of misrepresentation to a given situation | 3.3 Application of the law to a complex scenario |
| 4 Understand duress and undue influence | 4.1 Explain the law of duress | 4.1 An explanation of the law of duress: the common law rules on duress to the person and economic duress and possible remedies; relevant case law: e.g., <i>Barton v Armstrong (1975)</i> , <i>R v A.G. for England and Wales (2003)</i> , <i>The Sibeon v the Sibotre (1976)</i> , <i>Atlas Express v Kafco (1989)</i> , <i>The Atlantic Baron (1979)</i> |
| | 4.2 Explain the law of undue influence | 4.2 An explanation of the equitable rules relating to undue influence; the classifications of undue influence, and their practical implications; remedies; relevant case law: e.g., <i>Williams v Bailey (1866)</i> , <i>Allcard v Skinner (1887)</i> , <i>National Westminster v Morgan (1985)</i> , <i>BCCI v Aboody (1990)</i> , <i>Barclays Bank v O'Brien (1993)</i> , <i>RBS v Etridge (No 2) (2001)</i> |

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| | 4.3 Analyse the law of duress and undue influence | 4.3 Comparison and contrast of actions in undue influence and duress; analysis of the development of both actions; analysis of the nature of fiduciary relationships required in undue influence |
| | 4.4 Apply the law of duress and undue influence to a given situation | 4.4 Application of the law to a complex scenario |
| 5. Understand the ways in which a contract might be discharged | 5.1 Explain how a contract may be discharged by performance | 5.1 An explanation of the law on discharge of contract: identify ways discharge may come about: by performance, by agreement, by breach, and by frustration; breach may also be anticipatory or repudiatory; waiver and accord, subject to existence of agreement and consideration; common law position on frustration; effect of frustration at common law; Law Reform (Frustrated Contracts) Act 1943: the payee rule, the payer rule, and the valuable benefit rule; the use of force majeure clauses; relevant case law: e.g., <i>Cutter v Powell (1795)</i> , <i>re Moore & Co v Landauer (1921)</i> , <i>Hoenig v Isaacs (1952)</i> , <i>Taylor v Caldwell (1863)</i> , <i>Metropolitan Water Board v Dick Kerr (1918)</i> , <i>Chandler v Webster (1904)</i> , <i>Appleby v Myers (1867)</i> , <i>Fibrosa Spolka Akcyjna v Fairborn Lawson Combe Barbour Ltd (1943)</i> |

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| | 5.2 Analyse the law on discharge of contract | 5.2 To include analysis of: reasons for 'strict performance' requirement in contract; consideration of the meaning of strict performance; evolution of discharge by frustration; the payee rule, the payer rule, and the valuable benefit rule |
| | 5.3 Apply the law on discharge of contract to a given situation | 5.3 Application to a complex scenario |
| 6 Understand the remedies available where a contract has been breached | 6.1 Identify the remedies available when a contract has been breached | 6.1 Repudiation, damages, rescission, specific performance, injunction |
| | 6.2 Analyse the purpose and meaning of damages in contract | 6.2 Monetary compensation aimed at putting the innocent party in position he would have been had the contract not been breached: e.g., <i>Robinson v Harman (1848)</i> |
| | 6.3 Explain the requirements for claiming damages | 6.3 The Claimant needs to show (a) the breach caused the loss, (b) the loss was not too remote: see, for e.g., <i>Hadley v Baxendale (1854)</i> , <i>Victoria Laundry (Windsor) Ltd v Newman Industries Ltd (1949)</i> , <i>The Heron II (1969)</i> , and (c) that the innocent party has attempted to mitigate the losses claimed; e.g., <i>C&P Haulage v Middleton (1993)</i> , <i>Payzu v Saunders (1919)</i> , <i>Smith, Hogg & Co v Black Sea Insurance (1939)</i> , <i>Pilkington v Wood (1953)</i> |

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| | 6.4 Explain heads of damages | 6.4 Explanation of: damages for non-pecuniary loss: loss of enjoyment, inconvenience, distress, e.g., <i>Jarvis v Swans Tours Ltd (1973)</i> , <i>Farley v Skinner No. 2 (2001)</i> ; damages for pecuniary loss: reliance loss, e.g., <i>Anglia TV v Reed (1972)</i> ; expectation loss (cost of cure, cost of replacement etc.), e.g., <i>Ruxley Electronics and Construction Ltd v Forsyth (1996)</i> , loss of bargain; consequential loss; liquidated damages clauses; penalty clauses; relevant case law: e.g., <i>Chaplin v Hicks (1911)</i> , <i>Watts v Morrow (1969)</i> ; <i>Cavendish Square Holding BV v Talal El Makdessi</i> ; <i>ParkingEye Ltd v Beavis (2015)</i> |
| | 6.5 Explain the remedies of specific performance and injunction | 6.5 Definitions of the remedies; equitable nature of the remedies, discretionary, granted where damages inadequate; outline of criteria used when granting these remedies |
| | 6.6 Analyse remedies | 6.6. Comparison and contrast of remedies; assessment of their practical effectiveness in contractual situations; demonstration of understanding of their limitations in commercial and consumer situations |
| | 6.7 Apply the law on remedies to a given situation | 6.7 Application to a complex scenario |

| Additional information about the unit | |
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| Unit aim(s) | To accredit a broad and detailed understanding 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: SFJ1B17: First line consumer legal advice and SFJ1B18: Consumer legal advice and casework |
| Details of the relationship between the unit and other standards or curricula (if appropriate) | N/A |
| 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 | Chartered Institute of Legal Executives (CILEx) |
| Availability for delivery | 1 st April 2013 |