



**Tutorial Pack:
Contract Law**

Introduction

The activities contained within this document are designed to be worked on both independently and as part of tutorials.

All articles and cases referred to in this pack may be found towards the end of the pack or by following the links provided.

Week 1

Activity 1

Mary has been advised by a mechanic to ask for £8000 for her VW Golf. Mary emails Deirdre offering to sell it for £6000; whereupon reading Deirdre phones Mary and agrees to pay £6000.

- a) However, Mary says she will only accept £8000 and the offer of £6000 was an error.
- b) What test should one apply in relation to intention to agree?
- c) Advise Mary if she is bound to sell the car to Deirdre and if so at what price?

Activity 2

Please access the leading case of *Balfour v Balfour* using a legal online resource. Read the headline, facts and judgment of Atkin LJ [1919] 2 KB 571 CA then answer the following:

- a) Why did he allow the appeal?
- b) When did he consider the relevant time that parties should intend their agreement be binding?
- c) Was this a moral, common law or policy decision do you think? If one, why so?

Activity 3

Please now become familiar with other leading cases in this area *Merritt v Merritt* [1970] 1 WLR 1211 CA and *Rose and Frank Co v Crompton Bros* [1925] AC 445 HL and answer the following

- a) How was the presumption rebutted in *Merritt* (what indicators were applicable)?
- b) Is the presumption rebutted easily in a business context? If not, then what must usually occur for this to happen?

Activity 4

On 1 June 2012 John offers to sell his car for £4000 to Cecilia and that the offer would remain open until 6 June. On 6 June Cecilia accepts via fax which is sent and reaches John's office at 18:45 hours. However, on 4 June John told his best friend and Cecilia's brother that he was withdrawing the offer as someone had seen the car and offered him £5000 for it. Please answer the following questions:

- a) Ignoring the conversation with her brother for now; would the fax be sufficient of itself to accept the offer?
- b) now consider the conversation John had with her brother. Does this have any effect on the offer?

Activity 5

Building upon the last question, now consider what if the fax was sent on the 2 June but stated that she would not pay the agreed price but rather £3000 and a pair of tickets to a rock concert. Answer the following

- a) What is this fax in law?
- b) What effect does it have on the offer?
- c) What position are both parties now in?

Week 2

Activity 1

Define the expressions 'condition' and 'warranty' when used in relation to a contractual term.

Activity 2

Explain two methods by which terms are implied into contracts.

Activity 3

Sara, who owns a restaurant, has placed a number of orders with local traders. She ordered ten salmon from Tom but was annoyed when ten trout were delivered. Tom said that it was a usual term in the fish trade that if salmon were not available trout could be delivered instead. This was correct but Sara had never heard of that term.

When Sara took delivery of a case of wine from Henri she signed a delivery note. The note included a statement that any complaints about the wine had to be made within five working days. The wine turned out to be undrinkable but Sara did not discover this until two weeks after delivery.

Sara also placed an order with Bella, a baker, for 50 bread rolls to be delivered every day. She was surprised to find that the deliveries were made at 1.30 in the afternoon, too late to be used for lunch, which was when she did most of her business.

Advise whether Sara has a valid claim for breach of contract against Tom, Henri and Bella.

Activity 4

Jan has contracted to supply Bill's farm with animal food over a 1-year period. The contract includes the following terms:

1. The animal food shall be delivered undamaged;
2. Payment must be made within three days of each delivery;
3. It shall be a condition that the farm will provide workers to unload the delivery.

Evaluate the accuracy of each of the four statements A, B, C and D individually, as they apply to the facts in the above scenario.

Statement A: Term 1 is likely to be seen as a condition of the contract.

Statement B: If one delivery is 50% damaged when it is delivered this would allow Bill to reject it.

Statement C: If Bill is a week late in paying for one delivery this will allow Jan to end the contract.

Statement D: On one particular week the delivery consists of only one small sack. If Jan has to unload the sack himself this will allow him to end the contract with Bill.

Week 3

Activity 1

Define 'misrepresentation'.

Activity 2

'The level of fault behind a misrepresentation is closely linked to the remedies for the innocent party.'

Discuss the reasons for having four different categories of misrepresentation in light of the statement above.

Activity 3

"... if I should be compelled to sign a lease or some other contract... under an imminent threat of having my house burnt down or a valuable picture slashed, though without any threat of physical violence to anyone, I do not think that the law would uphold the agreement..." per Kerr J. *Occidental Worldwide Investment Corporation v Skibs A/S Avanti, The Sibeon and The Sibotre* [1976].

Analyse the extent to which this statement represents the development of a common law concept of economic duress?

Week 4

Activity 1

Zack is a singer who performs live music regularly. He hires Alvin as a guitarist to play while he sings. Alvin has broken his arm in an accident and will be unable to play the guitar for three months. Alvin has been paid in advance for the remainder of the month.

Brigid is the owner of a restaurant where Zack is booked to play. However, Zack has just been invited to play at a special awards ceremony on the same evening, and is unable to play at both venues.

Claude is the owner of a hotel on an island where Zack has been booked to play the following week. Normally the island is accessed by a bridge. However, the bridge has recently been destroyed in a flood and the only way to access the island is by helicopter which Zack cannot afford.

Advise whether Zack is entitled to treat the contracts with Alvin, Brigid and Claude as frustrated and any consequences that may apply.

Activity 2

Explain the meaning of 'anticipatory breach of contract' and critically analyse the remedies available to the innocent party when such a breach occurs.

Activity 3

Carlo contracts with Burly Builders to work on his house. Daisy, his neighbour, gives violin lessons in the evening, so Carlo makes it a term of the contract with the builders that 'all work should finish by 5.00pm so that neighbours are not affected by noise'. In fact Burly Builders frequently work until 7.00 pm and on several occasions Daisy has had to abandon her lessons due to the noise.

To apologise for the disturbance Carlo buys tickets to take Daisy to see a concert at the Royal Theatre. Unfortunately the theatre has sold too many tickets for the concert, and Carlo and Daisy are unable to see the performance. Daisy is very upset about this.

When planning the work on his house, Carlo was visited by a representative of Garden Roofs who said that a plant covered roof would be perfect for his house. He asked the builders to use one of these roofs and they did so, purchasing the roof from Garden Roofs themselves. However, the roof turned out to be unsuitable and within a short time it had to be replaced.

Advise whether Daisy can successfully claim directly against the builders for loss of earnings, and against the Royal Theatre for disappointment, and whether Carlo would be successful if he sued Garden Roofs for compensation.

Activity 4

(a) Critically analyse the requirements for a successful claim for substantial damages for breach of contract.

(b) Compare and contrast 'expectation loss' and 'reliance loss' as methods of quantifying damages for breach of contract.

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