

Contract Law | H1 Notes

A contract is a legally binding agreement enforceable by law.

Elements of a Contract

Agreement

Both parties must agree to take part in the contract. This can be in writing, implied by conduct or spoken.

An offer must be made and accepted. An invitation to treat is an invitation to make an offer.

Intention

Both parties must know that they are taking part in a legally binding agreement.

Consideration

Both parties must exchange something of value e.g. money

Capacity to Contract

Not everyone is entitled to be able to enter a contract. You cannot enter a contract if you are under 18, under the influence of alcohol or drugs, are mentally ill or acting ultra vires.

Consent to Contract

No party should be under pressure/duress when making a contract – they both must enter into the contract voluntarily.

Legality of Purpose

The details of the contract must be legal - no agreements to do something illegal are considered legal contracts.

Legality of Form

The way in which the contract is created is determined by the contents of the contract. A contract between a bank and a married couple for a loan should be in writing while contracts between a family to arrange a holiday should be verbal.

Remedies for Breaches

Sue for Damages

The party negatively affected can sue for compensation.

Rescind the Contract

The two parties can decide to scrap the contract and forget about it.

Specific Performance

A judge can order that the contract be carried out by both parties.

How to Terminate a Contract

Agreement

Both parties agree to leave the contract.

Performance

The contract is carried out by both sides. This is the most common way to terminate a contract.

Frustration

Some unforeseen event happens, meaning that the contract cannot be pursued e.g. death of one of the parties.

Breach

One party breaks the terms of the contract.

Conditions and Warranties

Warranty

This is not needed in a contract but is sometimes offered. If a warranty is broken, the contract will not be terminated.

Condition

This a very important element to a contract. If broke the contract can no longer be carried out.

