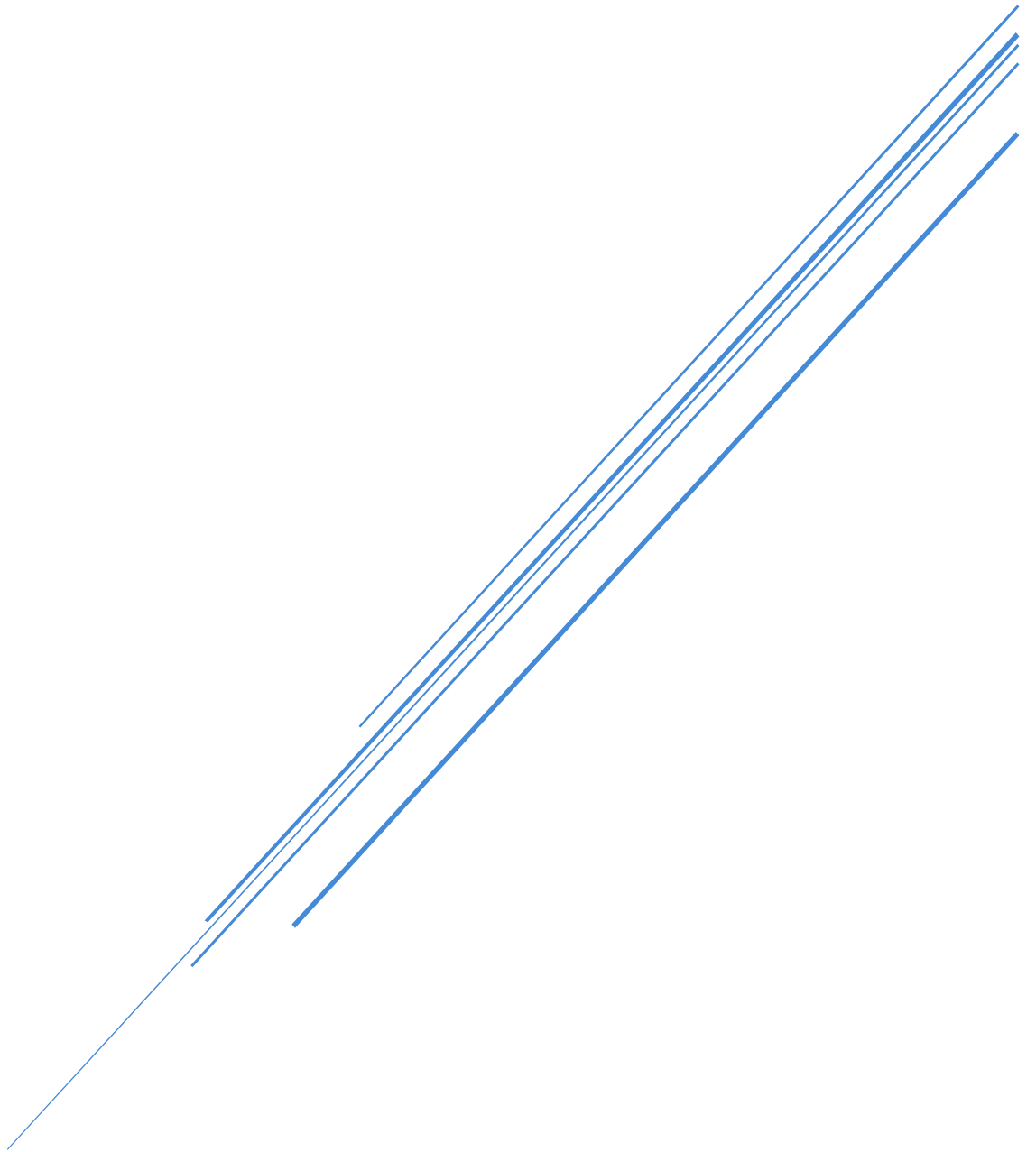


# CONTRACT LAW: LAWS104

COMPREHENSIVE GUIDE TO CONTRACT LAW



Macquarie University  
LAWS104

# CONTRACT LAW

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## LAW OF OBLIGATIONS (TORTS AND CONTRACTS)

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**Torts:** obligation is found in a legal rule.

**Contracts:** obligation is found in an agreement. 'A legally enforceable agreement between two or more parties that a court will enforce', supported by a consideration. An objective test 'reasonable person' test will be carried out to ensure a contract is enforceable.

Contract law is a fundamental study of law that serves as a basic building block for other core units such as equity and property. Sources of contract law include common law and equity (general law) and statute (Australian consumer law).

Statute law, made by parliament, is the primary source of guidance and general law principles are the second source of reference.

### **Promissory Intent**

- **Bilateral contracts:** promise for a promise. Everyday contract where an offer is met with acceptance.
- **Unilateral contracts:** act for a promise. No contract until an act (\$100 reward) has been achieved.

### **Formation**

- Express contracts: oral or written expressed words of a party
- Implied contracts: (Clarke v Dunraven [1897] AC 59)
- Simple contracts: no special form to be created. Contract is formed regardless of the form used, consideration is essential where a promise meets a promise.
- Formal contracts: special form (deed – special steps in execution). Form takes the place of consideration.

### **Enforceability**

- Valid contracts: elements of formation are satisfied
- Void contracts: the illegality or impossibility of the contract to be upheld means the contract never existed 'ab initio'.
- Voidable contracts: 'Void at election' of the innocent party's choice/discretion
- Unenforceable contracts: valid clauses however cannot be enforced
- Illegal contracts: the purpose of the contract is illegal and against public policy

### **Performance**

- Executed contract: been performed
- Executory contract: yet to occur

**Vitiating Factors:** lack of genuine consent

Duress: coerced under threat or force to commit to a contract.

Mistake:

Undue Influence:

Unconscionability: morally wrong

Misrepresentation: negligent/fraudulent actions