

Certainty and Completeness

- Absolute certainty and completeness not required - question of sufficiency
- If there is no sufficiency, agreement is void and unenforceable

Certainty

- Wakeling v Ripley
 - Post-contract performance by parties may bear on interpretation of uncertain terms
- **Severability**
 - Term = uncertain & unessential = term severed
 - Term = uncertain & essential = contract void
- Whitlock v Brew
 - Clause = uncertain - “neither specifies nor provides a means for the determination as between the parties of the period for which the contemplated lease shall be granted..” ... Determine whether condition is severable
 - If meaningless can be ignored
 - If “definitive” term of contract - can not be ignored
 - 1) is there a machinery clause —> 2) is the condition severable
- Rectification
 - Hooker Town v Jilba
 - Court corrects obvious errors
 - Scammell v Ouston
 - Court uses implied terms to fix uncertainty
 - Rely on extrinsic evidence to establish purpose of contract and intention of parties
 - Trawl industries

- Machinery clause can operate to provide meaningful outcome = uncertainty does not exist (Kirby held clause as illusory, however, Samuels and Clarke JJA found that cost could be ascertained)

- **Multiple meanings**

- Hall v Busst

- Clause = uncertain and void due to multiplicity of meanings (e.g. a reasonable sum...?)

- Upper Hunter County District

- Requires that the agreement's words are sufficiently clear and precise so that the obligations of the parties can be properly determined
- "More than one meaning... is not void for uncertainty... as long as it is capable of a meaning..."

- Scammell v Ouston

- "As long as language is not so obscure and so incapable of any definite or precise meaning that the Court is unable to attribute to the parties any particular contractual intention" the contract cannot be held void

- **Discretion or subject to financial clauses**

- Meehan v Jones

- "If the Court, in construing the contract, can decide which of the two possible meanings is that which the parties intended, there will be no uncertainty"
- Conduct of parties deemed relevant to interpretation of term
- Willingness of courts to uphold bargains wherever possible