

To have a contract, you need to have four things

- 1) Offer
- 2) Acceptance
- 3) Intention to form a legal contract
- 4) Consideration – what you give up to enter into the contract

Every contract has an exclusion clause

Example: Monash is not liable if you explode due to the stress of uni

BUSINESS IS BASED ON TRUST – When trust is breached then you go to law for a remedy, that is law (court) last resort

Issue – a legal rule in the form of a question

INTRODUCTION TO LAW OF CONTRACT

Contract – It is an agreement between two or more parties under which legal rights and obligations are created and will be enforced in courts.

The law of contract is to ensure that agreements freely entered into are honored.

Classification of contracts

- 1) Simple contracts – all contracts except contracts under seal are simple contracts. They can be oral, written or both. Need consideration
- 2) Formal contracts – contracts under seal referred to as deed. No consideration. They must be in writing and signed, sealed and delivered.
- 3) Express contracts – contracts where the intentions of both the parties are expressly stated either orally or in writing.
- 4) Implied contracts – contracts where the terms of the contract are concluded from the conduct of the parties and the surrounding circumstances.
- 5) Bilateral contracts – contracts where there is mutual exchange of promises.
- 6) Unilateral contracts – contracts where an offer is made inviting acceptance by actual performance rather than by a promise.
- 7) Valid contract – A contract with all essential elements present

- 8) Void contract – A contract where as far as the law is concerned never existed at all
- 9) Voidable contract – A contract which one party may avoid or get out of if that party wishes to do so.
- 10) Unenforceable contract – A contract which on its prima facie (first encounter) is a valid contract but which by reason of some technical effect is not capable of being enforced by action by one or both parties.

OFFER AND ACCEPTANCE

Offer – It is a proposal by one party to enter into a legally binding contract with another party. It can be oral, written or implied by conduct.

Invitation to treat/ statement to supply information – Initial approach to others inviting them to make an offer.

Gibson v Manchester council (1979) – the defendant sent out mails to its tenants saying that they may be willing to sell the flats and if interested must make a formal application to buy. The plaintiff had completed the application and sent it and before the plaintiff could accept the offer they had revoked the invitation.

Held: the plaintiff offer was an invitation to treat and hence was not enforceable.

Harvey v Facey (1893) – Harvey enquired whether Facey would sell the Bumper hall pen. Facey replied that he would for 900 euro. Harvey then made an offer to buy it and Facey refused to sell. Was there offer and acceptance?

Held: There was no contract as there was no acceptance to Harvey's offer.

Shop displays catalogues and advertisements – Pharmaceutical Society of Great Britain v Boots Cash Chemists (Southern) Ltd (1953) – The defendant used to sell medicine using the self-service method. The plaintiff said that this was breaching the act that said that a pharmacist needs to be present when drugs are sold. The defendant argued that when the customer brings the drugs to the counter, they are making an offer and the pharmacist is accepting the offer and hence completing the contract.