

CONTRACT LAW — SAMPLE PREVIEW

1. Formation Overview

A valid contract in Australian law requires:

Element	Explanation
Agreement	Offer + acceptance determined objectively (<i>Smith v Hughes</i>).
Consideration	A bargained-for price for a promise (may be nominal).
Intention	Reasonable inference parties meant legal consequences (<i>Ermogenous</i>).
Certainty & Completeness	Terms must be sufficiently definite (<i>Scammell v Ouston</i>).
Capacity	Parties must be competent (minors, intoxication, mental incapacity).

2. Offer & Invitation to Treat

Scenario	Legal Effect	Case
Advertisements	Invitation to treat	<i>Grainger v Gough</i>
Display of goods	Invitation to treat	<i>Pharmaceutical Society v Boots</i>
Reward notices	Offer to the world	<i>Carlill</i>

Offer: A promise indicating willingness to be bound upon acceptance.

Acceptance: A final, unqualified assent that matches the offer (mirror rule).

Postal Rule: Acceptance effective upon posting (*Henthorn v Fraser*).

Does not apply to instantaneous communication (*Brinkibon*).

3. Consideration (Sample Extract)

Consideration must **move from the promisee** and have **legal value**, though adequacy is irrelevant (*Chappell v Nestlé*).

Past consideration is not valid (*Roscorla v Thomas*), except where:

1. The act was done at the promisor's request, and
2. Payment was understood to be expected (*Re Casey's Patents*).

Illusory promises are not good consideration (*Placer Development*).

Modern practical benefit doctrine (e.g., *Williams v Roffey Bros*) may validate contract variations.

4. Intention to Create Legal Relations (Sample Extract)

Test is objective: would a reasonable person believe parties intended legal consequences?

Presumptions:

- **Domestic arrangements:** No intention (*Balfour v Balfour*), unless separated (*Merritt v Merritt*).
- **Commercial dealings:** Presumption of intention (*Edwards v Skyways*), rebuttable by Honour Clauses (*Rose & Frank*).

5. Certainty (Sample Extract)

Contracts fail for uncertainty where terms are:

- Too vague
- Incomplete
- Dependent on an agreement to agree (*Walford v Miles*)

However, machinery clauses (e.g., independent valuation or formula) preserve enforceability (*Godecke v Kirwan*).

6. Sample Case Note (Marketing Preview)

***Smith v Hughes* (1871)**

Issue: Whether subjective mistake regarding the nature of goods prevents contract formation.

Rule: Objective theory applies — what matters is how the promisee's conduct would appear to a reasonable person.

Application: Buyer's subjective belief about oats did not prevent agreement.

Outcome: Binding contract.