

1.2 Module 2 Law of Contract

1.2.1 Headline information about the module

Module title	Law of Contract
Module NFQ level (only if an NFQ level can be demonstrated)	N/A
Module number/reference	Module 2
Parent programme(s) the plural arises if there are embedded programmes to be validated.	LLB (Hons)
Stage of parent programme	1
Semester (semester1/semester2 if applicable)	Semester 1 and 2
Module credit units (FET/HET/ECTS)	ECTS
Module credit number of units	15
List the teaching and learning modes	Full-Time, Part-Time,
Entry requirements (statement of knowledge, skill and competence)	Fulfilment of entry requirements for programme or equivalent attainment from accredited prior experiential learning.
Pre-requisite module titles	None
Co-requisite module titles	None
Is this a capstone module? (Yes or No)	No
Specification of the qualifications (academic, pedagogical and professional/occupational) and experience required of staff (staff includes workplace personnel who are responsible for learners such as apprentices, trainees and learners in clinical placements)	Lecturers are expected to hold at least a level 8 legal qualification, preferably with a professional legal qualification. It is an advantage to have completed the Certificate in Training and Education provided by Griffith College.
Maximum number of learners per centre (or instance of the module)	60
Duration of the module	Two Semesters, 24 Weeks
Average (over the duration of the module) of the contact hours per week (see * below)	4
Module-specific physical resources and support required per centre (or instance of the module)	Lecture room with internet access and digital projector.

Analysis of required learning effort										
Effort while in contact with staff										
Classroom and demonstrations		Mentoring and small-group tutoring		Other (specify)		Directed e-learning (hours)	Independent learning (hours)	Other hours (specify)	Work-based learning hours of learning effort	Total effort (hours)
Hours	Minimum ratio teacher/learner	Hours	Minimum ratio teacher/learner	Hours	Minimum ratio teacher/learner					
96	1:60						279			375
Allocation of marks (within the module)										
					Continuous assessment	Supervised project	Proctored practical examination	Proctored written examination	Total	
Percentage contribution					50			50	100%	

1.2.2 Module aims and objectives

This module aims to develop the learner's understanding of the fundamental doctrines and principles of the law of contract and to equip the learner with the ability to identify and explain practical problems that arise in contracts. It also has as a principal objective to instil knowledge of contractual obligations, particularly their creation and enforcement, and the discharge of liability. In addition, it will enable learners to comprehend and apply the appropriate remedies for breach of contract. Finally, this module aims to develop awareness in learners of contemporary industry practice surrounding the drafting of contracts.

1.2.3 Minimum intended module learning outcomes

On successful completion of this module, learners will be able to:

- (i) Distinguish a legally binding agreement from a non-legally binding agreement in light of the legal requirements for the creation of a valid, enforceable contract;
- (ii) Differentiate between warranties and representations, express and implied terms, valid and invalid terms.
- (iii) Investigate various vitiating and voiding factors and the contractual consequences of the existence of such factors;
- (iv) Evaluate the remedy of damages for a breach of contract;
- (v) Research legal problems in Contract Law using both hard copy sources and online legal databases.

- (vi) Apply basic contract law principles to practical, abstract scenarios arising in a legal context
- (vii) Engage in basic legal reasoning and predictive analysis demonstrating knowledge of the principles of contract law

1.2.4 Rationale for inclusion of the module in the programme and its contribution to the overall MIPLOs

This module is foundational to the study of law, as contract theory and practicalities permeate fields of law such as private and public law, commercial law, and other areas which touch upon contractually fixed relationships. Due to the importance and centrality of the knowledge learners acquire in this module, it is included in the general requirements of the first year of studies. It provides learners with an understanding of the central concepts of contract law generally, as well as the laws which govern contracts in the Irish context more particularly. The module learning outcomes are aligned to several the Programme Learning Outcomes including to critically analyse the theoretical and philosophical underpinnings of the law (4) and to conceptualize and communicate legal arguments with clarity and precision (3).

1.2.5 Information provided to learners about the module

At the start of the Academic Year, learners will receive their Faculty Handbooks. The Faculty Handbook provides general information about the faculty, its staffing, resources, and operation. Detailed programme information is supplied through Moodle, including copies of the approved module descriptors from the accredited programme along with a programme timetable detailing related teaching, learning and assessment.

During the first class of the Module, learners are given a detailed outline of the Module showing the schedule of delivery and the dates when assignments are released and due for submission.

Moodle is used to provide learners with ongoing access to module related information, from the handbooks and module outlines provided in advance of the module commencement, the lecture material and links to related resources provided on a scheduled basis in line with the module delivery.

1.2.6 Module content, organisation and structure

- Introduction to the Law of Contract
 - Formation of the Contract
 - Offer, acceptance, consideration, intention to create legal relations
- Formalities in the creation of contracts
- Consumer protection
- Terms of a contract
 - Express terms, parole evidence rule, terms implied in law, terms implied in fact.
- Third party rights
 - Privity of contract

- Capacity to contract
 - Capacity of minors, companies, drunk persons, persons suffering from mental incompetence.
- Vitiating and voiding factors
 - Misrepresentation, mistake, undue influence.
- Discharge of a contract
 - Performance, breach, frustration
- Damages

1.2.7 Module teaching and learning (including formative assessment) strategy

The module is delivered by means of participative lectures which consist of tutorial-style discussions, group work sessions and exercises. Formative assessment is provided through tutorial-style discussion, group work and exercises focused on specific case law and problem-based learning requiring the learner to analyse the law and apply it to concrete contractual problems. The lectures are supplemented by structured on-line resources and reading.

Learners undertaking the course via blended learning benefit from varied and additional options for engagement to compensate their reduced attendance of campus. These include webinars, screencasts (recorded lectures), discussion fora, and increased use of the College's VLE (Virtual Learning Environment), Moodle.

In order to support learners through the exam process, they engage in answering of sample exam questions and correction of their own and peers' papers, thereby familiarising themselves with the module learning outcomes and marking criteria. Learners also engage in workshops and online discussion forums to complement and reinforce their learning.

In addition to what has been stated, classroom assessment and benchmarking techniques are deployed to encourage learners to develop more agency in terms of their own learning including in-class presentations, group work, peer-review exercises and reflective practice. The variety of teaching, learning and assessment techniques reflect an enhanced emphasis on skills acquisition to deepen practical knowledge. Finally, the attention of learners is drawn to current industry practice and technology used in the specific area of law to add a further dimension to learning, tracking the actual practice of legal professionals.

1.2.8 Work-based learning and practice-placement

The Law of Contract is a classroom-based module and does not require work-based learning and practice elements.

1.2.9 E-learning

Moodle, the College Virtual Learning Environment is used to disseminate notes, advice, and online resources to support the learners. The learners are also given access to Lynda.com as a resource for reference.

1.2.10 Module physical resource requirements

Requirements are for a fully equipped classroom. The classroom is equipped with a PC and Microsoft Office; no other software is required for this module.

Moodle can be accessed in the learner's home, various open labs on campus and in the library.

1.2.11 Reading lists and other information resources

Primary Reading

McDermott, P.A., McDermott, J. (2017) *Contract Law*. Bloomsbury Professional Clarke, R. (2016) *Contract Law in Ireland*. Dublin: Round Hall
Enright, M. (2007) *Principles of Irish Contract Law*. Dublin: Clarus Press
Furmston, M.P. (2017) *Cheshire, Fifoot and Furmston's Law of Contract*. Oxford: OUP

Secondary Reading:

Beale, H.G., Bishop, W.D. & Furmston, M.P. (2007) *Contract: Cases and Materials*. Oxford: OUP
Clark, R. & Clarke, B. (2008) *Contract Cases and Materials*. Dublin: Gill & Macmillan
McKendrick, E. (2018) *Contract Law: Text, Cases, and Materials*. Oxford: OUP Smith, S.A. (2004) *Contract Theory*. Oxford: OUP

1.2.12 Specifications for module staffing requirements

Lecturers qualified to at least a Level 8 legal qualification (LLB (Honours), BABL, BALB, preferably with a professional legal qualification and a third level teaching qualification (e.g. Certificate in Training and Education).

Learners also benefit from the support of the Programme Director, Programme Administrator, Lecturers, a dedicated Learning Technologist, Learner Representative, and Students' Union and Counselling Service.

1.2.13 Module summative assessment strategy

Theoretical knowledge will be assessed through continuous assessment and through a written final examination. The continuous assessment will take the form of a written assignment.

The examination will consist of both essay and problem-style questions. The essay style questions will place emphasis on the demonstration of understanding pertaining to Contract Law. By contrast, problem-style questions enable learners to apply the principles of contract law to factual scenarios.

The summative assessment is divided as follows:

No.	Description	MIMLOs	Weighting
1	Assignment	vi, vii, vii	50%
2	Exam	i-vii	50%

1.2.14 Sample assessment materials

Sample Assignment:

“...while consideration need not be adequate it must be sufficient. This means that before the consideration promised can support a counter promise it must not run foul of a series of rules designed to indicate when a promise will not suffice in law.”

Robert Clark, Contract Law in Ireland (8th Ed Round Hall 2016) paragraph [2-12]

In light of the above statement, discuss the status of the concept of “sufficiency of consideration” in Irish law today. Refer in your answer to appropriate sources of law.

Assignment Marking Criteria: See Appendix 1

Sample Examination
Answer any three of the following questions.
All questions carry equal marks.

Question 1

Donal seeks your advice on the following three problems:

(a) Donal read an advertisement in a local newspaper for Aimee’s Clothing Store which read “5 brand new fur coats this Saturday, first come first served, €10 each” Donal was the first to arrive on Saturday morning and attempted to purchase the coat but he was told the offer only applied to women. Donal wonders if the advertisement in this matter amounts to an offer and if so what effect this has on his contractual rights

(b) Following his disappointment with the coat Donal got a train costing €50 to an auction for leather jackets in Galway which had been advertised as being held that Saturday morning. Upon arrival Donal found that the auction had been cancelled and no leather jackets were being sold. Donal wonders does he have any remedy in contract law against the auction holders.

(c) Donal offered to sell his motorbike to Shane for €1500 last week. Shane contacted Donal yesterday asking whether Donal would accept €1400 for the motorbike. Donal said “no”, at which point Shane purported to accept Donal’s original offer of €1500. Donal asks you if he is now bound in contract to sell the motorbike to Shane for €1500.

Sample Answer 1

Students should use the ILAC method when answering the question. The question relates to the topic of advertising (part a) auctions (part b) as well as revocation of an offer (part c).

The student should identify that question A and B deal with the distinction between the offer and invitation to treat, and that part c deals with potential revocation of an offer by way of counter-offer. The student should define both offer and invitation to treat and state that ordinarily goods on display and advertisements will amount to an invitation to treat and not an offer, as well as discussing exceptions to same.

Relevant Law: Students should identify that the following case are relevant to answer the question:

Carlill v Carbolic Smoke Ball [1893] 1 QB 256

Lefkowitz v Great Minneapolis Surplus Store 251 Minn 188, 86 NW 2d 689:

Harris v Nickerson (1873) LR 8 QB 286:

Hyde v Wrench (1840) 3 Beav 334

Stevenson v McLean (1880) 5 QBD 346

Students should apply the above case law to the facts of the problem question.

Question 2

Simon promised his daughter Septima that if she returned from the Bahamas he would agree for her to live in his house in Dublin for a two year period if she studied for the first year at the King's Inns in order to qualify as a Barrister. Septima moved back to Dublin and began studying at the King's Inns. However, Septima has now failed all her exams at King's Inns and is not able to qualify as a Barrister. In these circumstances Simon has now asked Septima to leave his house.

Lucy, Septima's mother, agreed to pay Septima €5000 if she refrained from smoking and drinking alcohol during her year spent at King's Inns. Lucy told several other family members and friends about this agreement. Despite the fact that Septima did not smoke or drink alcohol for the duration of her year at King's Inns, Lucy has refused to pay Septima the €5000.

Septima's husband Suetonius was unable to accompany Septima to Ireland due to his job in the Bahamas. While Septima was in Ireland, Suetonius agreed to pay her €500 a month as maintenance. Suetonius is yet to make a payment to Septima.

Advise Septima.

Would your advice be any different if the agreements between the parties had been written agreements?

Sample Answer 2

Students should use the ILAC method when answering the question. Students should identify that this is a problem question dealing with the topic of Intention to Create Legal Relations.

Introduction: Students should identify that not all agreements are intended to create legal relations between parties. Students should note that the law identifies a particular number of agreements which it presumes not to create legal relations. Students should state that familial agreements will usually be presumed not to create legal relations.

Law: Students should identify the following cases as being relevant to dealing with the question asked:

- *Balfour v Balfour* [1919] 2 KB 571
- *Courtney v Courtney* (1923) 57 ILTR 42
- *Jones v Padvatton* [1969] 2 All ER 616
- *Haggar v De Placido* [1972] 1 WLR 716
- *Hamer v Sidway* (1891) 124 NY 538

Students should apply the above case law to the facts of the problem question and identify that in general a familial agreement will be presumed not to create legal relations. This is, however, a presumption only: in certain circumstances, such agreements will give rise to legal relations.

Had the agreement been written down the decision in Haggar v De Placido [1972] 1 WLR 716 would be authority to say that the agreement would be more likely to create legal relations.

Question 3

Describe the circumstances in which Irish law will require some formalities to be observed, or documentary evidence produced, in order to deem an agreement enforceable. Refer to appropriate sources of law in your answer.

Sample Answer 3

Students should identify that this is an essay question dealing with the Formalities necessary to enter into contracts.

Introduction: Students should identify that there are certain formalities which must be satisfied in order for a certain contracts to be enforceable. A focus on contracts for sale of land would be normal here and most likely. These formalities originate from the Statute of Frauds (Ireland) Act 1695 and are now set out in s. 51 of the Land and Conveyancing Law Reform Act 2009. These formalities require that a contract for the sale of land must be evidenced in writing and that the memorandum of the contract must include the parties to the contract, the property to be sold and the price to be paid. The student should also note that the memorandum must be signed. The Student should also explain the impact of the “subject to contract” phrase and the development of the case law in this area.

Law: The Student should note that the following case law is relevant to answering the problem question:

- *Godley v Power* (1961) 95 ILTR 135
- *Black v Grealy* (Unreported, High Court, 10 November 1977)
- *Kelly v Park Hall School* [1979] IR 340
- *Casey v Irish Intercontinental Bank* [1979] IR 364
- *Tiverton Estates v Wearwell* [1974] 2 WLR 176
- *Mulhall v Haren* [1981] IR 364
- *Boyle v Lee* [1992] 1 IR 555 *Jodifern v Fitzgerald*

Question 4

Discuss how Irish law regulates the capacity to enter into contracts for persons who lack mental capacity.

In your answer refer to appropriate sources of law.

Sample Answer 4

Students should identify that this is an essay question dealing with the capacity to enter into contracts. Most important to mention for those lacking mental capacity would be the:

Assisted Decision-Making (Capacity) Act 2015. Other cases that could be relied on: Imperial Loan Co. v Stone [1892] 1 QB 559; Hart v O'Connor [1985] 1 AC 1000; Hassard v Smith (1872) 6 IR Eq. 429. Students may also discuss opportunities for reform in this area and this should be rewarded.

Question 5

Explain the circumstances in which a contract will be held to have been discharged by frustration. Refer to appropriate sources of law in your answer.

Sample Answer 5

Students should use the ILAC method when answering the question. Students should identify this as an essay type question dealing with the circumstances in which a contract will be held to have been discharged by frustration. Students should refer to impossibility (having regard to the difference between impossibility and impracticability), substantial interruption to the performance of a contract due to the unavailability of an essential item, and frustration of purpose (under which the underlying reason for the contract has evaporated).

Relevant case law:

- *Taylor v Caldwell (1863) 3 B & S 826*
- *Robinson v Davison (1871) LR 6 EX 269*
- *Reilly v R. [1934] AC 176*
- *Rally Brothers v Compañía Naviera Soto Y Aznar [1920] 2 KB 287*
- *Irish Leisure Industries Ltd v Gaiety Theatre Enterprises Ltd (Unreported, Supreme Court, February 12, 1975)*
- *Ringsend Property Limited v Donatex Limited and Bernard McNamara [2009] IEHC 568*
- *Davis Contractors v Fareham UDC [1956] AC 696*
- *Zupen v Kelly Technical Services (Ireland) Ltd [2000] ELR 277*
- *Neville and Sons v Guardian Builders [1995] 1 ILRM 1*
- *Krell v Henry [1903] 2 KB 740*
- *Herne Bay Steam Boat Co v Hutton [1903] 2 KB 683*
- *Drocarne Properties Limited v Seamus Murphy Properties Limited [2008] IEHC 99*

Students are expected to demonstrate knowledge and understanding of the circumstances in which a contract will be held to have been discharged by frustration.

Question 6

Andrew is the director of Crowe's Carpets, a struggling business with excess stock. He badly needs a loan from his local bank, Vulture Bank, in order to keep the business afloat. Andrew secures the loan from the bank by executing a charge over his family home, jointly owned by him and his wife, Phillipa. Phillipa is also a director of Crowe's Carpets but plays no role in the day-to-day running of the business, leaving that solely up to Andrew. She signs the documentation in the bank without reading it and receives no independent legal advice when doing so. Andrew tells Phillipa that there is "no risk" to the family home. Mr. Meek from Vulture Bank attempts to enquire as to whether Phillipa has understood the documentation she has signed but Andrew, who is by her side for the entire time she is signing the documentation, tells Mr. Meek to be quiet. Crowe's Carpets fails shortly after the documentation is signed and Vulture Bank move to take the family home.

Advise Phillipa in relation to whether her transaction with Vulture Bank can be set aside due to the undue influence of Andrew.

Sample Answer 6

Students should apply ILAC to the above problem question. They should realise that the question is asking them to discuss the topic of undue influence by third parties.

The following cases should be mentioned:

- *Barclay's Bank v O'Brien [1993] 4 All ER 417 Royal Bank of Scotland v Etridge [2001] UKHL 44 Bank of Ireland v Smyth [1995] 2 IR 459*
- *Bank of Nova Scotia v Hogan [1997] 1 ILRM 407*
- *Ulster Bank Ltd v FitzGerald [2001] IEHC 159*
- *Ulster Bank Ireland Ltd. v Louis Roche [2012] IEHC 166*

Students should not fall into the trap of accusing the bank of undue influence.