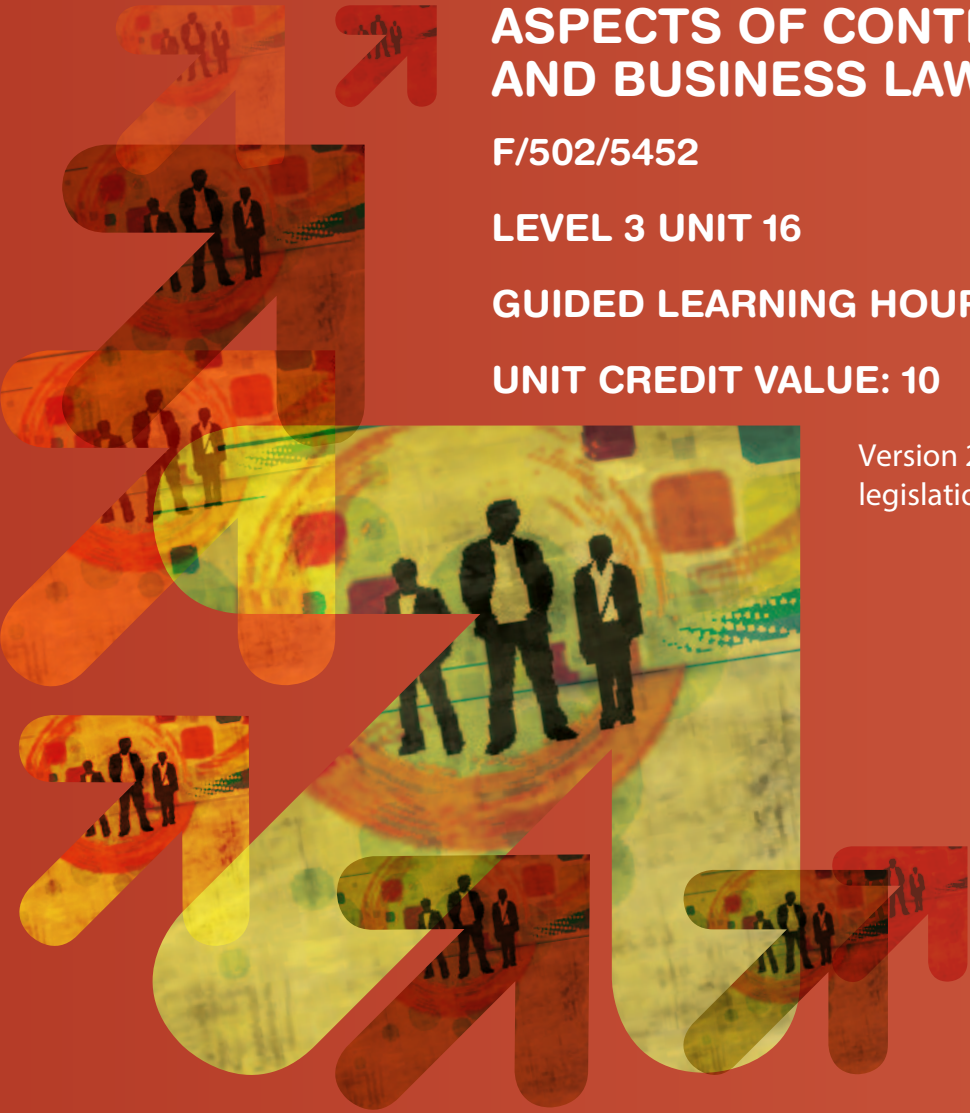




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# OCR LEVEL 3 CAMBRIDGE TECHNICAL CERTIFICATE/DIPLOMA IN BUSINESS



## ASPECTS OF CONTRACT AND BUSINESS LAW

F/502/5452

LEVEL 3 UNIT 16

GUIDED LEARNING HOURS: 60

UNIT CREDIT VALUE: 10

Version 2: Updated to reflect current legislation and Acts.

# ASPECTS OF CONTRACT AND BUSINESS LAW

F/502/5452

LEVEL 3 UNIT 16

## AIM OF THE UNIT

All businesses are affected by the legal requirements surrounding contracts. This unit will enable learners to gain an understanding of the relevant sections of contract law and the rights and responsibilities for both businesses and consumers that are contained within them. Learners will also gain knowledge of the remedies available when contracts are breached.

## ASSESSMENT AND GRADING CRITERIA

<b>Learning Outcome (LO)</b>  The learner will:	<b>Pass</b> The assessment criteria are the pass requirements for this unit.  The learner can:	<b>Merit</b> To achieve a merit the evidence must show that, in addition to the pass criteria, the learner is able to:	<b>Distinction</b> To achieve a distinction the evidence must show that, in addition to the pass and merit criteria, the learner is able to:
1 Understand the legal requirements for a valid contract	P1 identify the legal criteria for offer and acceptance in a valid contract		
	P2 explain the law in relation to the formation of a contract in a given situation	M1 explain the advantages and disadvantages to both parties of forming a contract in a given situation	
	P3 describe the law with respect to misrepresentation in a given situation		
2 Understand the meaning and effect of terms in a standard form contract	P4 describe the meaning of terms in a standard form contract		
	P5 explain the effect of terms in a contract	M2 analyse the effects of terms in a contract in a given situation	D1 evaluate the effects on the consumer and the business of the terms in a given contract
3 Understand the impact of statutory consumer protection on the parties to a contract	P6 explain the law with respect to consumer protection in given situations	M3 analyse the impact of consumer protection on the business and the consumer	D2 evaluate the importance of consumer protection to the consumer in two different given situations
4 Know the remedies available to the parties to a contract	P7 describe the remedies available for breach of contract		

## TEACHING CONTENT

The unit content describes what has to be taught to ensure that learners are able to access the highest grade.

Anything which follows an i.e. details what must be taught as part of that area of content.

Anything which follows an e.g. is illustrative, it should be noted that where e.g. is used, learners must know and be able to apply relevant examples to their work though these do not need to be the same ones specified in the unit content.

### Learning Outcome 1 Understand the legal requirements for a valid contract.

Contract	An agreement between two or more parties (offeror and offeree) that have mutual obligations and is enforceable by law. A legally binding contract requires offer and acceptance, consideration and legal intent.
Verbal (oral) contract	A contract where agreement has been reached by word of mouth.
Written contract	A contract where agreement has been reached through the signing of a printed document.
Standard form contract	A contract that does not allow for negotiation.
Invitations to treat	An invitation to make an offer. An invitation to treat cannot be accepted, as it is not an offer as such. <i>(For example, goods on display in a shop window are usually considered to be an invitation to treat, rather than an offer).</i>
Counter offers	When a party rejects the terms of the original contract to try and negotiate a new contract. The original offer no longer stands. Merely asking for information does not constitute a counter offer.
Battle of the forms	A situation where two businesses standard forms (used in a mutual contract) conflict with each other. <i>(For example when both businesses claim not to be liable).</i>
Contracts (rights of third parties) Act	An act that enables a party who is not a part to the contract (a third party) to enforce the terms of a contract in certain circumstances. <i>(For example, if a business purchases an item from a supplier, the parties to the contract are the business and the supplier. However, the supplier may give the consumer a warranty as part of the contract, thereby making the consumer a third party who may be able to enforce the contract).</i>
Misrepresentation	A false statement of fact made by one party of a contract to another party, which may convince a party to accept the contract.

### Learning Outcome 2 Understand the meaning and effect of terms in a standard form contract

#### Sale of goods

Contract of sale	A contract between a seller and buyer to transfer goods for compensation.
Goods	A tangible or physical product, <i>(for example food, cars etc).</i>
Sale of Goods Act	An act that regulates the selling and buying of goods. A number of terms are implied into a contract between a seller and buyer under the Sale of Goods Act, these include title, description, satisfactory quality, fitness for purpose and sample.
Terms	The provisions of a contract which give rise to obligations that are legally enforceable.
Title	The seller must have the right to sell the goods at the time of completion of the contract.
Description	The goods must meet the description given.

Satisfactory quality	That any reasonable person would regard the quality of the good to be satisfactory (change from merchantable).
Fitness for purpose	That a good must do what has been expressed (or implied) that it will do.
Sample	That the bulk of a good will correspond with any sample that may have been examined.

### Supply of goods and services

Service	An intangible product, ( <i>for example accountancy, warranty, haircut etc.</i> )
Supply of Goods and Services Act	An act that regulates the supply of services. The same implied terms included in the Sale of Goods Act exist for any goods which are supplied with services or hired. There are also a number of additional implied terms specific to services, these include, care and skill, reasonable time, reasonable charge.
Care and skill	That any service will be performed with reasonable care and skill.
Reasonable time	That a service will be carried out in a reasonable timeframe when none has been explicitly expressed as part of the contract.
Reasonable charge	That a customer will pay a reasonable amount for a service, where no fee has been explicitly expressed as part of the contract.

### Learning Outcome 3 Understand the impact of statutory consumer protection on the parties to a contract

Express terms	Terms that have been specifically mentioned and agreed by all parties to the contract.
Implied terms	Terms that have not been specifically agreed but are still included in the contract.
Statutes on common contractual terms	To include, consumer protection Act, Unfair Contract Terms Act, Unfair Terms in Consumer Contract Regulations, the Consumer Protection (distance selling) Regulations and the Electronic Commerce (EC directive) Regulations.

### Learning Outcome 4 Know the remedies available to the parties to a contract

Breach of contract	A failure to perform the duties of a contract.
Damages	Compensation for loss, injury or harm from breach of contract.
Liquidated damages	Damages which are set out in the formation of a contract.
Unliquidated damages	Damages which have not been set out in the contract.
Rejection	The right to reject an offer as long as it has not been accepted. Accepted goods can also be rejected if they are not as described, satisfactory quality or fit for purpose.
Reservation (retention) of title	A clause to allow the supplier to retain ownership of goods until certain conditions have been met, ( <i>for example payment</i> ).
Mitigation of loss	If a contract is broken the party who broke the contract will not be liable for any damages which have been avoided could have been reasonably avoided.
Lien	A claim against an asset for payment of a debt.

Injunctions	An order to refrain from doing something that will breach the contract, or to refrain from continuing to do something that will breach the contract.
Specific performance	An order that a contract is performed.
Court	The authority to adjudicate legal disputes between parties of a contract.
No win, no fee	An arrangement that a claimant will not pay any fees to pursue a claim. If the claimant wins the case, costs will be paid by the losing party. If the claimant loses the case then no fees will be charged.

It is important to maintain focus on the current law and practice in this area. The list given above is neither prescriptive nor exhaustive. **Where legislation has been revised learners will consider the most up to date version as that will reflect current industry practice.**

## DELIVERY GUIDANCE

### Learning Outcome 1

Case studies are an excellent resource to accurately illustrate aspects of contract law. These could fall within the realms of learners' experience and also from the wider world of business. A sound understanding of the terminology involved in this area is essential and learners should be encouraged to use the correct legal terms. The internet provides plenty of scope for learners to research the legal requirements for a valid contract. However, tutors should provide some guidance over which sites to visit.

For M1 tutors could provide the learners with a variety of case studies and/or written contracts so they can identify the benefits and problems to both parties. The learners could study a range of scenarios such as offer and acceptance, consideration and legal intent.

### Learning Outcome 2

The learner must be able to understand the meaning and effect of terms within a contract. The tutor could introduce this by providing examples of contracts between a consumer and supplier, of both goods and services, which result from the application of the relevant consumer law; as suggested in the teaching content (Sale of Goods Act and Supply of Goods and Services Act). It should be noted that the focus of this learning outcome is the meaning and terms within the contract, and not the in depth detail of the Acts. This is a topic that learners may have some personal experience in, for example a mobile phone contract. The tutor could provide the learners with a selection of contracts for them to study; the learner should explain what the terms in the contract mean, whether or not it is lawful and what the effect of the terms in the contract are.

For M2 the learner must be able to analyse the effects of terms in a contract in a given situation. In small groups the learners could begin to analyse the effects of the terms they identified in learning outcome 1. The tutor could provide a variety of contracts that demonstrate a range of different scenarios where consumer and supplier have been advantaged and disadvantaged by the implied terms. The learner could then provide an analysis on the effects of the terms; they could look at different types of contract, different situations, and from the view point of both consumer and supplier.

For D1 the learner must evaluate the effects on the consumer and the business of the terms in a contract. The learners could use the same contracts as they did for P5 and M2. The learner should be able to compare and contrast the effects of the terms from the view point of both consumer and supplier. They could create a report on the advantages and disadvantages of the effect of the terms, providing a detailed evaluation and judgement.

### Learning Outcome 3

Learners will need to gain an understanding of the major statutes in UK law surrounding consumer protection. The tutor could facilitate a group discussion on UK law with respect to consumer protection. In small groups the learners could research the topic using a variety of websites, television programmes and magazines. They could then take specific situations and investigate applications of these statutes and present their findings to the rest of the group.

For M3 the learner must be able to analyse the impact of consumer protection laws on the consumer and supplier. They could be provided with a range of case studies, identify the consumer law, and analyse its impact on the consumer and the business.

For D1 the learners should evaluate the importance of consumer protection for the customer. In small groups the learners could investigate why consumer protection is important, what its advantages are, and how the consumer could be affected if it wasn't in place. The tutor could provide a variety of case studies providing recent and relevant examples of the need to protect consumers. The learner must choose a minimum of two different situations and provide an evaluation on the importance of consumer protection in those situations. The situations could be chosen by the tutor or the learner, however tutors will need to check the selected business can fit the criteria of the task.

### Learning Outcome 4

The learners must understand what remedies are available to all parties within a contract. The tutor could lead a group discussion on a range of the terms suggested in the teaching content. In small groups the learners could investigate one of the terms and present their findings to the rest of the group. The learner could then apply this knowledge and investigate the remedies available to a given situation.

## SUGGESTED ASSESSMENT SCENARIOS AND TASK PLUS GUIDANCE ON ASSESSING THE SUGGESTED TASKS

### **P1, P2, P3, M1**

#### **Scenario and task:**

A colleague has asked you for some advice regarding the legal requirements of a contract.

For P2 you must explain to your colleague how the law governs the formation of the contract and for M1 explain what the advantages and disadvantages are to your colleague and the supplier.

For P1 and P3 you must also identify what criteria would have to be fulfilled for offer and acceptance and describe to your colleague the law concerning misrepresentation of the contract.

### **P4, P5, M2, D1**

#### **Scenario and task:**

You have been provided with a standard form contract and have been asked to explain its features.

For P4 and P5 you must describe the meaning of terms and explain the effect of terms in the contract.

For M2 you must analyse the effects of the terms in the contract, whether or not it meets legal requirements and what effects (positive and negative) it may cause.

For D1 you must evaluate the contract and provide a justified judgement about the extent of the effects on the consumer and the business.

### **P6, P7, M3**

#### **Scenario and task:**

The Citizens Advice Bureau would like a leaflet to give consumers more information about their rights under consumer protection legislation.

For P6 and P7 you should produce a leaflet with examples that explains the law, concerning consumer protection in different situations. You must also describe what consumers can do if they feel they have a case for breach of contract. For M3 you should analyse the impact on the consumer and supplier of consumer protection

### **D2**

#### **Scenario and task:**

The Citizens Advice Bureau would like to add some additional information to their consumer leaflet to highlight the importance of consumer protection.

For D2 you must add the additional information to the leaflet you created for P6, P7 and M3. The additional information must reflect your evaluation of the importance of consumer protection. You must provide this evaluation based on your assessment of two contrasting consumer situations.



## LINKS to NOS

**CfA BAD322** Analyse and report data (Partial)

**CfA BAF121** Monitor and evaluate contracts (Partial)



## **CONTACT US**

Staff at the OCR Customer Contact Centre are available to take your call between 8am and 5.30pm, Monday to Friday.

We're always delighted to answer questions and give advice.

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