

Introduction 1.1

- A contract is a legally enforceable agreement.
- Many contracts are not intended for the law. Many contracts are made verbally, and some contracts are implied by the conduct of the parties.
- Some contracts are formed and performed at the same time. Other contracts, one of both of the parties, make a promise and therefore have an ongoing obligation once the agreement has been formed.
- Intention to create legal relations**
- Agreement (offer and acceptance)**
- Consideration (the price/offer)**
- Capacity of the parties**
- Consent (no vitiating factors)**
- Legality of subject**

1.1.1 Offer

- An agreement means that there has been a valid offer made and that it has been accepted.
- To be determined if an agreement exists:
 - Is there an offer and?
 - Has the offer been accepted?

An offer can be made to one person, many people, or the world at large.

The person(s) receiving the offer is called the offeree.

- An offer can be:
 - accepted by the offeree or
 - rejected
 - rejected by the offeree,
 - revoked by the offeror, or
 - lapsed.

1.1.2 Revocation or promisee offer (offer + intention)

- An offer can be made if the offeree rejects the offer.
 - A counter offer amounts to a rejection of the original offer (James v Dickinson)
 - The offer is then terminated and the offeree cannot later change their mind to accept the offer.
 - The offeror can make a new offer.

1.1.3 Revocation

- If the offer has not already been accepted or rejected, the offeror can revoke the offer (Dickinson v Dickinson).

- Notes that timing is important → offeror can only revoke the offer if it has not yet been accepted (Dickinson v Dickinson)

- If acceptance has occurred then offer may not be revoked (Dickinson v Dickinson)

- The offeror is entitled to revoke their offer even if it has been promised to keep the offer open for a particular period unless the offeror has given the promise to keep the offer open, for example by paying a deposit (Dickinson v Dickinson)

1.1.4 Lapse of time

- If the offer is not accepted, rejected or revoked, it will lapse (Dickinson v Dickinson)

- For eg. if a offer is said to be valid for 24 hours, it will lapse after 24 hours (in writing, it cannot accept the offer on the boundary morning. The offer lapses at midnight).

- If an offer is said to be valid for a certain period of time, the offer will be considered as a promise to keep the offer open, for example by paying a deposit (Dickinson v Dickinson)

1.1.5 Lapse of time

- If the offer is not accepted, rejected or revoked, it will lapse (Dickinson v Dickinson)

- An intention to keep an offer open will not create an offer (Dickinson v Dickinson)

1.1.6 Intention to keep an offer open

- An intention to keep an offer open will not create an offer (Dickinson v Dickinson)

- It is only an expression of a willingness to start the offer and accept a promise, which in time may produce an offer and acceptance.

- It is the party who intends, for the intention who will be the party making the offer.

- Intention to keep an offer open will not create an offer (Dickinson v Dickinson)

- Goods of a kind or others or other means are considered to be an offer (Dickinson v Dickinson)

- Advertising of goods or services in newspapers or on radio or television or internet and generally considered to be an invitation to treat (Dickinson v Dickinson)

- Goods, like, clothes and catalogues or these are considered as a general rule to be invitations to treat (Dickinson v Dickinson)

- Selling machines (these are not considered as invitations to treat but as an offer (Dickinson v Dickinson))

- Intention to keep an offer open will not create an offer (Dickinson v Dickinson)

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- For the acceptance must be in reliance on the offer (Dickinson v Dickinson)

- A promise to accept something that they don't know about

- Acceptance must be communicated to the offeror (Dickinson v Dickinson)

- If the offeror specified the specific mode of acceptance

- Acceptance is not valid until it is communicated to the offeror (Dickinson v Dickinson)

- If not specified (as in an advertisement) then the offeror can choose the mode of acceptance

- The mode of the mode or what is reasonable in the circumstances must be followed (Dickinson v Dickinson)

- The offeror cannot insist that a failure to respond is acceptance (Dickinson v Dickinson)

- Contractual negotiations are not an offer (Dickinson v Dickinson)

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- Contracts can be in the form of a deed or known as simple contracts (most contracts are simple contracts) → consideration is required for simple contracts

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Arturo Cuomo



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