



# CONTRACT LAW IN ALBERTA



Legal  
Resource Centre  
of Alberta

## CREDITS

Version 1.0 (2010)

This guide has been prepared, published and distributed by the Legal Resource Centre of Alberta Ltd. It is based on *Contract and Consumer Law*, published by the Public Legal Education Association of Saskatchewan (available at: <http://docs.plea.org/pdf/ContractConsumerResource.pdf>).

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ISBN: 978-0-919792-49-4

Funding for this resource was provided by the Alberta Law Foundation.

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The Legal Resource Centre gratefully acknowledges PLEA Saskatchewan for the use of the original document on which this resource was based.

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# INTRODUCTION

While units of study in Legal Studies such as Criminal Law tend to excite students, contract law can seem dry to the young law student. But it is important for students of Legal Studies to realize that unlike criminal law, contract law directly affects each and every one of us. So while the media glorifies criminal law, the reality remains that it likely will not have a direct application to the vast majority of students. Contracts, on the other hand, are entered into every day by almost every person. Therefore, the importance of teaching contract law should be obvious.

*Contract Law in Alberta* approaches issues surrounding contract law, in both the context of how the law applies to adults and how the law applies to youth. In addition, this has been designed with Alberta's Legal Studies curriculum in mind. Each lesson plan is broken down into objectives, methods, materials, and procedures, and includes handouts, activities, links to outside resources, and appropriate background teacher information where necessary.

This guide also contains links to outside resources to help diversify perspectives on contract law. As well, as many of the optional areas of study in the Legal Studies contract law unit are not specifically dealt with in *Contract Law in Alberta*, teachers are encouraged to pursue further avenues of study in the area of contract law based on class interest and time availability. Additional resources are provided on the last page of this booklet which may assist with further inquiry.



# LESSON ONE: WHAT IS A CONTRACT?

## **Objective:**

Students will learn the basic elements of a contract and understand when valid contracts do and do not exist.

## **Method:**

Reading, Discussion, Questions, Homework

## **Materials:**

“What is a Contract?” handout and questions

Examples of common contracts (video rentals, credit card offers, employment)

## **Procedure:**

1. Have students make a list of contracts they have entered into. This could include any number of things from video rentals to car loans. Ask them identify what they believe to be important aspects of the contract. Have students share their list with the class.
2. Introduce students to the concept of contracts by reading “What is a Contract”. Link student examples to elements of contracts outlined in handout.

### KEY QUESTIONS:

- Why are social invitations not considered an enforceable contract?
- Why does society need contracts?

3. Assign “What is a Contract?” questions.
4. For homework or an in-class activity, teachers may wish to have students examine common contracts and identify both the key elements (offer, acceptance, consideration) and other secondary elements of the contracts. Teachers can either bring examples of contracts to class, or have students bring their own to discuss and analyze. Sample contracts can be found through links from the Government of Canada’s “The Business Link – Legal Links” website at [http://www.cbsc.org/servlet/ContentServer?pagename=CBSC\\_AB/CBSC\\_WebPage/AB\\_WebPage\\_Template&cid=1104766632008&c=CBSC\\_WebPage](http://www.cbsc.org/servlet/ContentServer?pagename=CBSC_AB/CBSC_WebPage/AB_WebPage_Template&cid=1104766632008&c=CBSC_WebPage)



# HANDOUT

## WHAT IS A CONTRACT ?

When did you last make a contract? Surprisingly, you do not have to look back too far – perhaps only yesterday, or even this morning. Did you buy a sandwich? Place a quarter in a video game machine? Get a haircut? These involve contracts. Of course there are more complicated contracts, like those signed when purchasing a house or borrowing money from a bank, but people sometimes do not realize that a contract is involved in many of their daily transactions.

A contract is a legally binding agreement between two or more persons, also called parties. One party promises to do something and the other party promises to do something in return.

Pat promises to cut Robin's lawn once a week and Robin promises to pay Pat \$10 per week. Pat and Robin have a contract.

To be an enforceable contract, there must be something of value (also called consideration) exchanged. Each party must receive a benefit. Generally, the courts do not care if the consideration is reasonable or not. Robin can agree to pay Pat five cents or fifty dollars; the important thing is that they have exchanged something of value: Pat's labour of mowing lawns in exchange for a fixed sum of money from Robin.

Not all promises are legally binding. If Pat promises to take Robin to lunch tomorrow and then does not show up, neither Pat nor Robin expects any legal action as a result of the broken engagement. Neither of them intended to create a legally enforceable agreement when they agreed to the lunch date. A social engagement is not a legally enforceable agreement.

Also, a promise of a gift is not legally binding. Your uncle could promise you a trip to Europe for successful completion of high school, but would be under no legal obligation to do so when you graduate.

A contract should be clear about who the parties are, what the contract is about, and what is given in exchange.

### ARE PRICE STICKERS AN OFFER ?

Price stickers are in writing and placed on or beside merchandise. But does this make a price sticker an offer?

Say you went to an electronics store and found a big-screen television with a \$75 price tag. While most likely an error, does this mean that you should be able to purchase the set for \$75? Unfortunately for the consumer, price stickers are not considered an offer for sale. Instead, they are considered an "Invitation to Treat". This means that it is your option, as a consumer, to make an offer that the retailer can either accept or reject. The retailer has no obligation to sell merchandise for the price on the tag.

In fact, the retailer does not necessarily have to accept any offer you make for merchandise, as long as the reasons they refuse it are not in violation of human rights legislation, such as refusing to sell to you based on gender, religion, or race.



There must be:

- offer – a serious proposal which will lead to a contract being formed
- acceptance – an unconditional acceptance must be given that follows the terms of the offer, either spoken or clearly indicated by actions
- consideration – something of value exchanged to fulfill the contract

Pat: I'll give you \$20 for those skates. (Offer)

Robin: It's a deal. (Acceptance)

Pat gives Robin \$20 (Consideration) in exchange for the skates.

If the offer, acceptance, or consideration is missing, there is no contract.

Pat: I'll give you \$20 for those skates. (Offer)

Robin: Well... I'm not sure. (No Acceptance)

Pat: On second thought, I think I'll buy a new pair instead. (Offer withdrawn)

Robin: No, don't. I'll take the \$20.  
(Acceptance too late – there is no contract)

Once you have entered into a contract, you cannot cancel or change it simply because you have changed your mind, unless the other party agrees to cancel or change it too. If you refuse to perform your part of the contract, the other party can sue you in a court of law. The court can enforce the contract – either by ordering you to perform your part of the contract or by ordering you to pay damages to the other person, for breach of contract. A breach of contract is the legal term used when one person fails to perform their part of a contract.

### THE LETTERBOX RULE

While it is now commonplace to conduct business through e-mail and telephone, not long ago most business was done through the mail. From this, the "letterbox rule" came to be. While antiquated, it still is in force today. When an offer is sent through the mail, the letterbox rule will apply. It considers the post office "the long arm of the recipient". Therefore, the moment that the acceptance is placed in the mail, it is considered to be in the hands of the recipient. The date it is received does not matter, and this rule even applies if the letter is lost in the mail or delayed due to a postal strike.



### QUESTIONS

1. Examine the following scenarios and decide if a contract could exist in each scenario.
  - a. You buy a bike for \$25 at a yard sale.
  - b. You invite your friend to come over to see your bike.
  - c. Your aunt promises to pay you \$50 if you quit drinking soda.
  - d. You buy a bike helmet from the hardware store.
  - e. You bring your bike in for a tune-up at the sporting goods store.
2. List and describe the three elements that must be in place for a contract to exist.
3. In 1996, Pepsi introduced their “Pepsi Points” promotion, which allowed people to collect points from pop bottles to earn merchandise. One television advertisement featuring items that could be purchased with Pepsi Points humorously ended with a student landing at school in a Harrier jet, with the line “7,000,000 Pepsi Points” appearing on the screen. Because additional Pepsi points could be purchased to make up for point shortfalls, one Pepsi customer presented Pepsi with 15 Pepsi Points and a cheque for \$700,008.50 (to cover the excess points and shipping and handling) for the jet. Pepsi refused to present him with a Harrier jet, and he sued. Did the advertisement constitute an offer?
4. Brad sends a letter to Carol on September 1<sup>st</sup> offering to sell his car to her for \$2500. Carol receives the letter on September 5<sup>th</sup>, and mails back an unconditional acceptance the same day. Brad receives the letter on September 10<sup>th</sup>. In the meantime, Rachel approaches Brad on September 7<sup>th</sup>, and offers him \$3000 for the car. He accepts. Do all the elements of a contract exist in this scenario? If so, has Brad breached his contract with Carol? Explain.
5. Jim sends a letter to Dean on June 1<sup>st</sup> offering to sell an MP3 player for \$50. Dean receives the letter on June 3<sup>rd</sup>, and writes a letter back accepting this offer, places a 50 dollar bill in the envelope, and plans on mailing it the next day. However, on June 3<sup>rd</sup>, Terry tells Jim that he will give him \$50 for the MP3 player. Jim accepts this offer, immediately calls Dean and revokes the offer. Dean says he can't revoke this offer because he has already written a letter. Does Jim have a contract with Dean that must be honoured? Explain.



### QUESTIONS

1. Examine the following scenarios and decide if a contract could exist in each scenario.
  - a. You buy a bike for \$25 at a yard sale.  
**YES**
  - b. You invite your friend to come over to see your bike.  
**NO** – this is a social invitation
  - c. Your aunt promises you \$50 if you quit drinking soda pop.  
**NO** – this is a promise of a gift
  - d. You buy a bike helmet from the hardware store.  
**YES**
  - e. You bring your bike in for a tune-up at the sporting goods store.  
**YES**
  
2. List and describe the three elements that must be in place for a contract to exist.
  - **offer** – a serious proposal which will lead to a contract being formed
  - **acceptance** – an unconditional acceptance must be given that follows the terms of the offer
  - **consideration** – something of value exchanged to fulfill contract
  
3. In 1996, Pepsi introduced their “Pepsi Points” promotion, which basically allowed people to collect points to earn merchandise. One television advertisement featuring items that could be purchased with Pepsi Points humorously ended with a student landing at school in a Harrier jet, with the line “7,000,000 Pepsi Points” appearing on the screen. Because additional Pepsi points could be purchased to make up for point shortfalls, one Pepsi customer presented Pepsi with 15 Pepsi Points and a cheque for 700,008.50 (to cover the excess points and shipping and handling) for the jet. Pepsi refused to present him with a Harrier jet, and he sued. Did the advertisement constitute an offer?

**Amongst many reasons given by the courts (*Leonard v. Pepsico*, 1996), this contract was not valid because the advertisement was not deemed to be a serious offer, and therefore not valid.**

4. Brad sends a letter to Carol on September 1<sup>st</sup> offering to sell his car to her for \$2500. Carol receives the letter on September 5<sup>th</sup>, and mails back an unconditional acceptance the same day. Brad receives the letter on September 10<sup>th</sup>. In the meantime, Rachel approaches Brad on September 7<sup>th</sup>, and offers him \$3000 for the car. He accepts. Do all the elements of a contract exist in this scenario? If so, has Brad breached his contract with Carol? Explain.

**All the elements of a contract (offer, acceptance, and consideration) exist here, so the contract between Brad and Carol is valid. The fact that Brad mailed the offer, and Carol mailed the acceptance before Rachel entered into a contract to purchase the car means that the letterbox rule applies, and Brad has breached his contract with Carol.**

**Brad has also created a contract with Rachel that he cannot carry out. While Carol has rights to the vehicle, Rachel would have the right to sue Brad for any damages she may have incurred because of the void contract between her and Brad.**

5. Jim sends a letter to Dean on June 1<sup>st</sup> offering to sell an MP3 player for \$50. Dean receives the letter on June 3<sup>rd</sup>, and writes a letter back accepting this offer, places a 50 dollar bill in the envelope, and plans on mailing it the next day. However, on June 3<sup>rd</sup>, Terry tells Jim that he will give him \$50 for the MP3 player. Jim accepts this offer, immediately calls Dean and revokes the offer. Dean says he can't revoke this offer because he has already written a letter. Does Jim have a contract with Dean that must be honoured? Explain.

**No, Jim and Dean do not have a contract. Because the acceptance was not yet placed in the mail, and an offer can be revoked any time before acceptance occurs, Jim can accept Terry's offer and revoke his offer to Dean.**

# LESSON TWO: CATEGORIES OF CONTRACTS AND THE STATUTE OF FRAUDS

## **Objective:**

Students will learn about written, oral, and implied contracts and understand how the *Statute of Frauds* affects contracts.

## **Method:**

Reading, Discussion, Questions

## **Materials:**

“Categories of Contracts” handout and questions

## **Procedure:**

1. Review with students the three elements of a contract (Offer, Acceptance, Consideration) and discuss ways that this can be accomplished in both verbal and written terms.
2. As a class, read “Categories of Contracts”, having students give examples of implied, oral, and written contracts.

### KEY QUESTION:

If a contract is made both orally and written, which would take precedent? Why? (Written – terms in writing are easier for a court to decipher than determining what arrangements have been made verbally)

3. Assign “Categories of Contract” review questions.
4. For further review on concepts covered in Lessons One and Two, teachers may wish to have students read content and/or work through problems found on pages 300 – 306 in the “Forming a Contract” chapter of *Learning About Law*. McGraw-Hill Ryerson, 1997.



## **CATEGORIES OF CONTRACTS**

Not all contracts need to be in writing. In fact, it would be impractical for some contracts to be in writing. For example, getting a haircut or taking a taxi does not usually involve a written contract. There are three categories of contracts:

### **Implied Contracts**

An implied contract is made when little or no discussion takes place regarding the content of the contract. The content is implied by the actions of the parties. Depositing a quarter into a video game machine is an implied contract. While no discussion between you and the arcade owner has taken place, it is apparent that you will get to play a round of the video game for that quarter. Getting onto a bus and depositing the fare is also an example of an implied contract. While no discussion has taken place, it is apparent that the bus will provide you with transportation service.

### **Oral Contracts**

An oral contract is created when two parties engage in a discussion of terms and then come to a verbal agreement. Oral contracts are legally enforceable. Just as much as a written contract, you should be sure to understand all of the terms that are included in the agreement. If you have to take the other party to court, you still will have to prove the terms of the contract. This may be more difficult if the agreement is not in writing.

### **Written Contracts**

Certain contracts, such as landlord and tenant agreements, and sale agreements of over 50 dollars need to be in writing. In addition to these, the Statute of Frauds requires five other types of contract to be in writing.

### **Statute of Frauds**

The *Statute of Frauds* was enacted in 1677 by the English Parliament in response to an overwhelming number of false claims of fraud in contract. It required certain types of contracts to be in writing to be enforceable under law. These included:

1. Contracts that are not to be or cannot be completed in one year.
2. Contracts for the sale of land.
3. Contracts in promotion of marriage.
4. Contracts wherein an executor or administrator of an estate agrees to be personally liable for debts of estate.
5. Contracts wherein a person agrees to be responsible for the debt of another person.

While now antiquated, the *Statute of Frauds* is still in effect in all provinces in Canada with the exception of Manitoba and Quebec. However, most provinces, including Alberta, have various other laws such as *Fair Trading Act* and *The Land Titles Act* that go even further than the requirements of the Statute of Frauds in protecting parties to a contract.

## **QUESTIONS**

### **Does this contract need to be in writing?**

For each of the following scenarios, decide whether or not the contract in question needs to be in writing to be enforceable.

1. Tara rents a video game machine for the weekend.  
 Oral  Written
2. In April, Scott is offered a job for the summer mowing lawns.  
 Oral  Written
3. Uncle Bernie offers \$50,000 to anyone willing to marry his son Maurice.  
 Oral  Written
4. Virginia sells a barren plot of land to a neighbour.  
 Oral  Written
5. Colin rents an airplane for a two-year term.  
 Oral  Written
6. Bertha is buying a hot tub to be installed at her ski chalet.  
 Oral  Written
7. Kenny agrees to co-sign his sister's car loan.  
 Oral  Written
8. Hazel sells an old swag lamp from her basement for \$40.  
 Oral  Written
9. Marlin agrees to buy all his bread for the next two years from an elderly neighbour.  
 Oral  Written
10. Joy joins a DVD club and agrees to buy five movies over the next three years.  
 Oral  Written

### Problems

1. You receive a phone call on February 1<sup>st</sup> from Acme Corporation in Saskatoon. They guarantee you a job from May 1<sup>st</sup> of this year until April 30<sup>th</sup> the following year. You verbally accept that day, do not sign any agreement, and start work on May 1<sup>st</sup> as agreed. On December 30<sup>th</sup> you are fired. Can you demand that the contract be fulfilled and keep your job until April 30<sup>th</sup>?
  
2. On March 1<sup>st</sup> a husband and wife separate. The husband tells his wife that he will give her \$1500 a month for as long as he lives if she agrees not to sue him. Does this contract have to be in writing?



**KEY**

For each of the following scenarios, decide whether or not the contract in question needs to be put in writing to be enforceable.

1. Tara rents a video game machine for the weekend.  
 Oral  Written
2. In April, Scott is offered a job for the summer mowing lawns.  
 Oral  Written
3. Uncle Bernie offers \$50,000 to anyone willing to marry his son Maurice.  
 Oral  Written
4. Virginia sells a barren plot of land to a neighbour.  
 Oral  Written
5. Colin rents an airplane for a two-year term.  
 Oral  Written
6. Bertha is buying a hot tub to be installed at her ski chalet.  
 Oral  Written
7. Kenny agrees to co-sign his sister's car loan.  
 Oral  Written
8. Hazel sells an old swag lamp from her basement for \$40.  
 Oral  Written
9. Marlin agrees to buy all his bread for the next two years from an elderly neighbour.  
 Oral  Written
10. Joy joins a DVD club and agrees to buy five movies over the next three years.  
 Oral  Written

**Problems**

1. You receive a phone call on February 1<sup>st</sup> from Acme Corporation in Saskatoon. They guarantee you a job from May 1<sup>st</sup> of this year until April 30<sup>th</sup> the following year. You verbally accept that day, do not sign any agreement, and start work on May 1<sup>st</sup> as agreed. On December 30<sup>th</sup> you are fired. Can you demand that the contract be fulfilled and keep your job until April 30<sup>th</sup>?

**Although the employment term length is less than a year, because this contract could not be completed within a year (the acceptance date is February 1<sup>st</sup>), it needed to be in writing to be enforceable at law.**

2. On March 1<sup>st</sup> a husband and wife separate. The husband tells his wife that he will give her \$1500 a month for as long as he lives if she agrees not to sue him. Does this contract have to be in writing?

**In this case, the contract falls outside the statute because there is no guarantee how long the husband will live. He may live for thirty years, or only six months. Because of this, the contract does not have to be in writing.**

# LESSON THREE

## CAPACITY TO CONTRACT AND UNENFORCEABLE CONTRACTS

### **Objective:**

Students will learn when contracts are unenforceable.

### **Method:**

Reading, Discussion, Questions

### **Materials:**

“Capacity to Contract” and “Unenforceable Contracts” handout and questions

### **Teachers’ Background Information:**

Undue influence, the improper and unconscientious use of influence or power possessed by one person over another because of their relationship or circumstances, is presumed to exist when alleged in the following relationships:

- Parent contracting with child
- Teacher with student
- Doctor with patient
- Lawyer with client
- Accountant with client
- Clergyperson with parishioner

Because of the power imbalance and emotional influence in the above relationships, any contract made between the above people would be voidable at the option of the individual alleging undue influence. In all other relationships, the burden of proof rests upon the person who alleges it.

### **Procedure:**

1. Discuss with students the rules and penalties for impaired driving. Link conversation to the idea that alcohol impairs a person’s ability to do many things, including enter into a contract. This is one of the scenarios where a contract could potentially be voided.
2. As a class, read “Capacity to Contract” and “Unenforceable Contracts”.  
KEY QUESTION:  
Would it be fair to try to enforce a contract where an honest mistake exists?  
Why or why not?
3. Introduce students to the concept of relationships with presumed undue influence. Discuss reasons why undue influence is presumed to exist between certain groups, such as teachers and students.
4. Either as individuals or in small groups, have students create four columns in their notebook: Misrepresentation, Mistake, Duress, and Undue Influence. In each column, students should create a scenario where a contract would not be enforceable.

### CAPACITY TO CONTRACT

To enter into a contract, an individual must have the capacity to do so. Generally speaking, everyone is capable of entering into a contract, although exceptions are made for minors, those with mental disabilities and intoxicated persons. This is because contracts must be performed “consensus ad diem”, meaning there must be mutual understanding of the terms of a contract. In the above exceptions, the individuals may be entering into a contract while not having the capacity to do so. Therefore, consensus ad diem may not exist.

### UNENFORCEABLE CONTRACTS

While there is no automatic right to cancel a contract, not every contract can be enforced by law. Contracts may be voided in the following situations:

#### Misrepresentation

Knowingly making misrepresentations or false statements to persuade a consumer to enter into a contract can make that contract voidable. This means that either party can cancel the contract if they want to. But the misrepresentation must be about a major part of the contract, not some minor detail, and the contract must be cancelled within a reasonable amount of time. For example:

Pat is thinking of buying a duplex from Dale and renting it out. Dale tells Pat that the rent is enough to cover the mortgage payments. In fact, Dale says, the rents last year totaled \$24,000. (Dale’s representation to Pat)

Pat buys the duplex and then finds out that the suites were vacant most of last year because of the poor location of the building, and last year’s rents were only \$10,000. (Dale’s representation to Pat was a misrepresentation)

Because the misrepresentation was a major part of the contract and because it convinced Pat to enter into the contract, Pat has the option to either continue the contract or cancel it.



#### LIFE INSURANCE –

Everybody is accepted but is everybody paid?

A frequent claim in life insurance advertisements is that no applicants will be turned down. However, this claim does not necessarily mean that benefits will be paid if that person should die.

For example, if a man knows that he is on his deathbed, says nothing, and enters into a life insurance contract, chances are the benefits will not be paid out if he dies shortly thereafter. This is because remaining silent about a terminal health condition is considered a misrepresentation on behalf of the individual. Had he revealed this information, the man on his deathbed may have only been eligible for a small insurance payout. Misrepresentation can work both ways, and as an individual entering into a contract, you have responsibilities to the person you are contracting with.

### **Mistake**

There are three types of mistakes that can void a contract

**Common Mistake** – If both parties make the same mistake regarding the subject matter. For example, if you agree to buy a car from a dealer, but unbeknownst to you, the car burns down in the car lot while you are striking the deal. The court would see this contract as void because each person was mistaken about the condition of the car.

**Mutual Mistake** – If both parties have a different subject matter in mind, the contract will be void. For example, if you're negotiating a car purchase, and you think it's the red Ford on the lot but the seller thinks you are dealing on the blue Chevy. This contract will be void because both parties made a mistake as to the subject matter.

**Unilateral Mistake** – An error made by one party to a contract that is known to the other, and the knowing party makes no attempt to fix this error. For example, Tyler sells Jon a vase which Jon believes to be an ancient Roman artifact. In actuality, the vase is a reproduction. If Tyler is unaware of Jon's erroneous belief, the case is one of mutual mistake. But if he knew that Jon thought it was an actual ancient artifact, it is a unilateral mistake.

### **Duress**

Genuine consent does not exist if a person agrees to a contract under the threat or use of physical violence.

### **Undue Influence**

Genuine consent does not exist if an improper use of power has been used by a person to form a contract.

### **CONTRACT KILLINGS**

A contract killing is when one person is hired to murder a third party. Since 1917, it is estimated that the Chicago Mob has ordered over 1100 contract killings. Among these murders, mob boss Sam Giancana was killed while frying sausage in his home, FBI informant Richard Cain was shot in a sandwich shop, and Al Capone's chief hit man Jack McGurn was gunned down in a bowling alley.

One commonality of all these murders is that the elements of a contract exist (the offer of murdering somebody, the acceptance, and the consideration of payment for the killing). However, the contract is not actually enforceable at law if one side or another reneges on the deal. This is because any contract for an illegal activity is not a legally binding contract.

# LESSON FOUR: YOUNG PEOPLE AND CONTRACTS

## **Objectives:**

Students will understand their relationship to contract law and know the difference between necessities and necessities.

## **Methods:**

Reading, Discussion, Questions.

## **Materials:**

“Young People and Contracts” handout and case studies

## **TEACHERS’ BACKGROUND INFORMATION:**

“Necessities” and “necessaries” are two different concepts, and contract law acknowledges this. Necessities constitute basic elements for living, such as food, clothing, and shelter. However, the term necessities takes into account many circumstances in one’s life. The necessities of life for many celebrities or people of privilege, for example, are different than the necessities of life for average people.

## **Procedure:**

1. Introduce students to concept of necessities and necessaries. Teachers may wish to use the standard of living for North Americans compared to developing countries to help distinguish the two terms.
2. Lead class reading of “Young People and Contracts”

### **KEY QUESTION:**

Are the provisions for young people entering into contracts fair, or are those signing contracts with young people put at a disadvantage?

3. Assign “Young People and Contracts” case studies.



## **YOUNG PEOPLE AND CONTRACTS**

Young people have a unique place in law. They are not yet adults, but they are developing many of the skills and abilities of adulthood. They are entitled to many of the same rights as adults, and can be held to many of the same responsibilities. They will not, however, always be treated in the same way as adults. This unique belief in law is generally founded on two beliefs:

- that children do not have the ability to properly evaluate their options and make sound decisions
- that it is the parent’s role in the family to guide and make decisions for their children

In Alberta, “the age of majority” (the age at which people become adults in the eyes of the law) is 18. Each province determines its own age of majority, and can restrict the rights and responsibilities that go along with it. In Alberta, upon reaching the age of majority, a person generally has the right to vote, get married, enter into contracts, and otherwise fully participate in society.

Contract law provides special protection to minors. For example, contracts that take unfair advantage of minors, or are not in their best interests, have no legal effect. Also, generally, minors cannot be held liable for contracts that they enter into, unless the contract is for the “necessaries of life” or if the minor has derived real advantage from it. This exception allowing the enforcement of contracts relating to the “necessaries of life” exists because some protection is also required for entities dealing with minors. Also, in the long run, a complete inability to enforce contracts with minors would be detrimental to minors, as no one would be willing to contract with them – as a result, minors who require necessaries would not be able to get credit for them.

Necessaries usually include things such as food, shelter, education and medical services, but can include a host of other things, depending on the minor’s circumstances. The law generally defines necessaries as goods suitable to the condition of life of the minor and the minor’s actual requirements at time of sale and delivery.

Minors have the option of cancelling contracts for non-necessaries. This affords minors some protection against reckless or imprudent acts, but the law balances this special protection for minors against legitimate business interests.

**HANDOUT**

For example, a minor may be tempted by a rent-to-own offer for a CD or video game player. The minor may come up with the required down payment and take the equipment home after entering into a contract that requires payments, plus interest, over time. After using the equipment for a week, the minor might regret the purchase for any number of reasons. While the minor cannot be held to the contract, he or she must return the merchandise if they want to cancel the contract. And, the seller may have a right to keep some or all of the down payment to compensate for the benefit the minor obtained during the time he or she had possession of the merchandise.

Generally, when young people are considered mature enough (by law) to engage in “adult” activities, they will be subject to the same rights and responsibilities as adults. However, these rights and responsibilities may be modified by the underlying principle of the law that states that young people require special guidance and protection. The special protection that contract law provides to minors is just one such example.





**HANDOUT**

**CASE STUDY – Skating on Thin Ice**

Gerry, who is 17 years old, bought a pair of skates for \$160 at the local sporting goods store. He paid \$100 cash and agreed to pay the balance at the end of the month. He took the skates home and then went skating. Later Gerry realized that he would not have enough money to pay back a loan from his friend if he paid the \$60 owing on the skates. He took the skates back, with the sales slip, and asked for a refund of \$100 dollars in exchange for the skates.

1. Did Gerry make a deal, or enter into a contract, with the sports store?
2. Would skates be considered a “necessary”?
3. Can the sports store make Gerry pay the \$60 and insist that he keep the skates
4. If Gerry can't pay the \$60, can he be made to return the skates?
5. If Gerry had not used the skates could he get his \$100 back? Yes, Gerry could likely get his \$100 back if he had not used the skates.

**HANDOUT**

**CASE STUDY – Charge it!**

Jo spends the summer working at a resort where the General Store allows people to charge groceries and other goods if they agree to pay their account every 30 days. Jo, aged 17, is staying in a cabin with her cat. One weekend Jo went into the city to go to the exhibition. The trip cost more than expected and she is unable to pay the General Store account. The manager now wants to collect the money owing.

1. Is there a contract between Jo and the General Store? Explain.
2. If Jo bought cosmetics, cat food, and lace curtains for her cabin on credit can the General Store collect for these items?
3. Is it likely that the General Store could collect for items such as milk, cheese, shoes, and gloves?
4. How might the General Store proceed to collect the money that Jo owed?

### **A FRIEND IN NEED**

Marina, who is 17 years old, borrowed five hundred dollars from J.J. Struthers, an adult friend of Marina's boyfriend. Marina needed the money for car trips and repairs, school supplies, clothes, and an insurance premium for her car. J.J. Struthers wanted Marina to repay the money, but she refused to do so.

1. Was the money used to provide Marina with the necessities of life? Explain.

**Yes and No. Marina used the money for some items that were necessities and for some items that weren't necessities. The car trips probably were not a necessary nor were the car repairs. Some cases have held that a car is not a necessary. If a car is not a necessary it seems unlikely that a judge would find the car insurance to be a necessary. On the other hand, school supplies and clothes are necessities, unless it could be shown that Marina had enough school supplies or clothes already.**

2. Is Marina legally responsible for repaying the loan?

**Yes. Marina is legally responsible for repaying the loan for items that are necessities. See the answer to question 1 above.**

3. If Marina drove her car for pleasure only, would she be required to repay the portion of the loan used for operating her car?

**No. Marina is not obliged by law to pay back the portion of the loan used for operating her car if she used it for pleasure only. She may have the moral responsibility to repay the loan. The courts have refused to find that a car is a necessary, whether she used it for work, to get her to school, or for pleasure. J.J. Struthers was taking a risk when he loaned the money to Marina.**

4. If you were J.J. Struthers, what would you do to collect the money Marina had borrowed?

**J.J. Struthers should try to discuss this case with Marina. J.J. could sue Marina in Small Claims Court for money he loaned for necessities.**

## **SKATING ON THIN ICE**

Gerry, who is 17 years old, bought a pair of skates for \$160 at the local sporting goods store. He paid \$100 cash and agreed to pay the balance at the end of the month. He took the skates home and then went skating. Later Gerry realized that he would not have enough money to pay back a loan from his friend if he paid the \$60 owing on the skates. He took the skates back, with the sales slip, and asked for a refund of \$100 dollars in exchange for the skates.

1. Did Gerry make a deal, or enter into a contract, with the sports store?

**Yes, Gerry did make a “deal” or a “contract” with the sports store. Gerry agreed to buy the skates and the store agreed to sell the skates to him. Something of value is being exchanged—Gerry gets the skates and the store gets (or will get) the money.**

2. Would skates be considered a “necessary?”

**No. The skates are not likely to be considered a necessary. They are used for recreation and cannot be described as essentials.**

3. Can the sports store make Gerry pay the \$60 and insist that he keep the skates?

**No, the sports store cannot make Gerry pay the \$60 and make him keep the skates. Gerry is under the age of 18. The law says that any contract he makes (except certain types of cases, such as employment contracts and necessities) is voidable; that is, he can choose whether he wants to be bound by it or not. Gerry may choose to go through with the contract or not. The sports store has no say in the matter – it is Gerry’s choice.**

4. If Gerry can’t pay the \$60, can he be made to return the skates?

**No. Gerry cannot keep the skates if he chooses to void the contract, he no longer has any right to them. Gerry must return the skates to the store. Would he get his \$100 back if he had to return the skates? He may not get his \$100 back because he has had some benefit from the contract: his use of the skates to go skating.**

5. If Gerry had not used the skates could he get his \$100 back?

**Yes, Gerry could likely get his \$100 back if he had not used the skates.**

**TEACHER KEY**

**CHARGE IT!**

Jo spends the summer working at a resort where the General Store allows people to charge groceries and other goods if they agree to pay their account every 30 days. Jo, aged 17, is staying in a cabin with her cat. One weekend Jo went into the city to go to the exhibition. The trip cost more than expected and she is unable to pay the General Store account. The manager now wants to collect the money owing.

1. Is there a contract between Jo and the General Store? Explain.

**Yes. Jo and the General Store have a contract. She buys groceries and other things at the store and they allow her to buy on credit providing that she pays her account every 30 days.**

2. If Jo bought cosmetics, cat food, and lace curtains for her cabin on credit can the General Store collect for these items?

**Items such as cosmetics, lace curtains, and cat food may not be considered necessities. The scope of the term “necessary” will vary from person to person, depending on their social and economic circumstances. It is equally possible that cosmetics and lace curtains could be accepted as necessities given that Jo is living on her own. It is less likely that cat food would qualify as a necessary. The store cannot collect for money owing for items that are not necessities, but if Jo voids this part of the contract she cannot keep the items that she still has in her possession, like the lace curtains.**

3. Is it likely that the General Store could collect for items such as milk, cheese, shoes, and gloves?

**Food is a necessary and clothing is generally considered to be a necessary as well. While it seems clear that Jo will have to pay for the milk and cheese it could be argued that the shoes and gloves were not necessities. This would depend on the situation. Clearly some clothing is necessary but clothing is often purchased for other reasons. For example, if Jo already had ten pairs of shoes another pair would likely not be considered a necessary.**

4. How might the General Store proceed to collect the money that Jo owed?

**If the contract is not voidable or is not voided by Jo, the General Store might collect the money that Jo owes them by suing her in Small Claims Court. A more neighbourly solution might be to arrange for Jo to pay her bill over the next few months.**

# LESSON FIVE: ENDING A CONTRACT AND BREACH OF CONTRACTS

## **Objectives:**

Students will understand the conditions for the ending of a contract.

## **Methods:**

Discussion, Reading, Questions

## **Materials:**

“Ending a Contract” handout

## **Procedure:**

1. Discuss with students that contracts do not go on forever, and most have a set end.
2. Read “Ending a contract” as a group.

### KEY QUESTIONS:

- What ways could a contract end because of impossibility of performance?
  - Is it fair to all parties that bankruptcy ends a contract?
3. Discuss the costs involved (time and money) in going to court. Have students debate whether or not this cost is a barrier in allowing individuals to achieve justice when a contract is breached. Does this cost allow people to breach contracts with no fear of facing consequences?



### ENDING A CONTRACT

In general, all contracts have an ending point. This will occur when both parties complete or “discharge” their obligations under the terms of the contract. It is otherwise known as “performance of contract”. However, this is not the only way contracts can end. Other ways of terminating contracts include:

1. **Agreement.** When contracts are discharged through agreement, it simply means that all parties came to an agreement as to the terms of ending a contract.
2. **Impossibility of Performance.** If events occur beyond a party’s control, such as a tornado destroying the workplace and equipment of one of the parties, then the contractual relationship can be ended.
3. **Bankruptcy.** If one of the parties declares bankruptcy, then generally speaking the contract will end.



### BREACH OF CONTRACT



Contractual relationships can also be terminated through a breach of contract. A breach of contract occurs if one party fails to perform their part of the agreement. In this case, the other party is no longer obliged to perform their obligations under the contract. However, unlike the above ways of ending a contract, in a breach of contract situation the innocent party to the contract may be entitled to compensation.

Options for the court could include:

- payment of damages for losses realized from not fulfilling the contract; or
- an order of specific performance, requiring the offending party to fulfill the original contract.

# CONCLUSION AND ADDITIONAL RESOURCES

As you can see, Contract Law affects people of all ages on a daily basis. Now that you have learned about the parts and types of contracts, and how contracts specifically affect you as a young person, you will be able to make smart choices about the contracts you enter into and you will be more knowledgeable about your rights and responsibilities within those contracts.

If you have any further questions about Contract Law, the following web sites may be helpful.

## **Canadian Contract Law**

Includes a definition of what a contract is, examples of areas of daily activity which may involve contracts, and the necessary parts of a contract.

<http://www.canadianlawsite.ca/contracts.htm>

## **Duhaime's Contract and Contract Law**

An 8 part legal resource which describes the special privileges of youth in regards to contracts, how to write a contract, and summaries of other legal terms and issues associated with contract law.

<http://www.duhaime.org/legalresources/Contracts.aspx>

## **Canadian Consumer Handbook: Contracts**

Describes guidelines specifically relating to consumer contracts. Also includes a description of special contracts (Health Clubs and Timeshares) and the specific considerations which must be considered with these types of contracts.

<http://www.ic.gc.ca/eic/site/oca-bc.nsf/eng/cao2362.html>





Funding for this resource was provided by the Alberta Law Foundation.



The Legal Resource Centre gratefully acknowledges PLEA Saskatchewan for the use of the original document on which this resource was based.

