

City University of Hong Kong

**Information on a Course
offered by School of Law
with effect from Semester A in 2012/2013**

Note:

Students who have taken a contract law course at undergraduate level or above at CityU or other institutions in a common law jurisdiction are not allowed to take this course.

Part I

Course Title: Law of Contract

Course Code: LW6564E

Course Duration: One semester

Credit Units: 4

Level: P6

Medium of Instruction: English

Prerequisites: Nil

Precursors: Nil

Equivalent Courses: Nil

Exclusive Courses: LW5602 and LW6164E Law of Contract

Part II

Course Aims

This course aims: –

1. To introduce students to the concept of incurring obligations by volitional agreement;
2. To give an idea of the legal mechanisms used to achieve and recognise contractual agreement;
3. To consider the effect of vitiating factors on the validity of a contract; how the practical use of standard form agreements, legislation and limitation clauses have modified ideas of freedom of contract;
4. To encourage a critical understanding of the practices, values and principles of the common law of contract;
5. To develop students' ability to reflect on their knowledge and understanding to identify, analyse and provide solutions to relevant contract law issues;
6. To critically evaluate the cases and analyse how standard form agreements, legislation and limitation clauses have modified ideas of freedom of contract; and
7. To prepare and enable students to apply and assess the principles to pursue independent research.

Course Intended Learning Outcomes (CILOs)

Upon successful completion of this course, students should be able to:

No.	CILOs	Weighting (if applicable)	Alignment of CILOs with PILOs	
			Stream	PILO No. Contributed to
1.	Identify and explain the principles of contract law and the different components of the law of contract.	55%	CL	1, 2, 3
2.	➤ Apply the principles of contract law to solve legal problems by: <ul style="list-style-type: none">◇ reading and interpreting cases◇ interpreting statutes◇ dealing with facts◇ conducting independent legal research◇ solving problems◇ marshalling persuasive arguments◇ using legal authorities appropriately◇ writing and communicating orally.	35%	CL	4, 5
3.	Analyse and critically evaluate legal principles and doctrines in the law of contract in the light of doctrinal coherence and the policy objectives of the law.	10%	CL	6,7

Teaching and Learning Activities (TLAs)

(Indicative of likely activities and tasks designed to facilitate students' achievement of the CILOs. Final details will be provided to students in their first week of attendance in this course)

CILO No.	TLAs	Hours/week (if applicable)
CILO 1	<p><i>Lectures</i> Students will be introduced to the basic principles of contract law as applicable in Hong Kong through discussions, debates and student presentations in the course of lectures.</p> <p><i>Tutorials</i> Students will be given the opportunity to clarify or raise further questions with regard to the basic principles of contract taught in the lectures and apply them to hypothetical situations to provide solutions through formation of legal strategy or negotiation and best alternatives for the parties in question.</p>	Lectures/seminars: 3 hours/week
CILO 2	<p><i>Lectures</i> Students will read cases to prepare for lectures/seminars, interpret statutes and develop persuasive arguments in class discussion.</p> <p><i>Tutorials</i> Students will apply legal principles to the solution of problems. This may be done in the form of discussions, debate or presentations</p>	
CILO 3	<p><i>Lectures</i> Students will explore relevant issues of law and address the theoretical underpinnings of various topics.</p> <p><i>Tutorials</i> Students will critically analyse and evaluate legal principles and doctrines.</p>	
CILO 1-3	Guided research (tutorial and discussion)	1 hour/week

Assessment Tasks/Activities

(Indicative of likely activities and tasks designed to assess how well the students achieve the CILOs. Final details will be provided to students in their first week of attendance in this course)

AT No.	Type of Assessment Tasks/Activities	Weighting (if applicable)	CILO Assessed	Remarks (exam duration, etc)
AT 1	*Participation (20% of the mark) Students' ability to understand rules and principles will be tested in forms such as presentations, debates and client counselling in tutorials and lectures sessions.	20%	1-3	Weekly lecture of 3 hours
AT 2	Coursework (20% of the mark) Students' ability to identify and explain the relevant principles and components of the law of contract will be tested.	20%	1-3	Written assignment
AT 3	Examination (60% of mark) Students' ability to identify and explain relevant principles and the components of the law of contract will be tested.	60%	1-3	3 hours [#]

* The overall mark allocated to performance/participation in inter-active in class activities will be assessed on the quality of the participation. Assessment criteria for those activities, their nature and their timing will be set out in the study guide/course manual and will be further expanded upon by the course leader.

The duration of the examination will be 3 hours. The course leader will announce the duration of the examination in the first week of the course. Similarly the course leader will announce whether the examination will be closed book or open book.

Assessment will be formative to enable students to demonstrate their capacity to understand, analyze and apply rules and principles and summative to assess ability to synthesize primary and secondary material to solve novel problem.

Students are required to attend at least 70% of the classes (lectures, seminars, presentation,). If a student does not meet this requirement, he/she may be disqualified for assessment. To enable the full benefit to be obtained from this course, students should attend all of the classes and activities.

Students must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass the course.

Grading of Student Achievement: Standard (A+, A, A-...F). Grading is based on student performance in assessment tasks/activities.

Part III

Keyword Syllabus

Nature of purpose of contract law; sources of contract law; offer and acceptance; intention to create legal relations; consideration; privity; terms of contract—conditions, warranties and innominate terms; implied terms; exclusion clauses; misrepresentation; mistake; duress; undue influence; illegality; restraint of trade; discharge; breach; remedies—damages, specific performance and injunction; quantum meruit; limitation of action.

Detailed Syllabus

The following topics are studied in detail:

Formation

1. Offer and acceptance.
2. Intention to create legal relations and consideration

Contents of a contract

3. Contract terms: express and implied
4. Contract terms and breach: conditions, warranties and innominate terms
5. Exclusionary clauses

Vitiating factors

6. Misrepresentation
7. Duress and undue influence
8. Mistakes

Discharge of contract

9. Performance: defective performance, repudiatory and anticipatory breach
10. Frustration

Remedies

11. Damages: remoteness, mitigation and liquidated damages
12. Specific performance and injunction
13. Recap: formation, terms, vitiating factors, discharge and remedies

Recommended Reading

Text(s)

Basic reading

J.C. Smith, *Smith & Thomas: A Casebook on Contract*, Sweet & Maxwell, 12th ed, 2009.

Supplementary reading

Following books and texts will be referred to in certain topics. Students are expected to download latest Hong Kong cases that are mentioned in the lectures.

Students are also advised to keep abreast of articles on contract law principles published in journals. Specific journal articles may be mentioned and referred to. It is expected that student research papers for assignment will include comparative positions (UK, Singapore, Australia i.e. common law jurisdictions) reflecting similarities, application or differences with Hong Kong law.

G.H. Treitel, *Law of Contract*, Sweet & Maxwell, 11th ed, 2003.

J Poole, *Textbook on Contract Law*, 10th ed, 2010.

S. Hall, *Law of Contract in Hong Kong: Cases and Commentary*, 2nd ed, LexisNexis, 2008.

P.S. Atiyah, *An Introduction to the Law of Contract*, OUP, 5th ed, 1995.

M.P. Furmstone, *Cheshire, Fifoot and Furmstone's Law of Contract*, Butterworths, 2001.

J. Beatson, *Anson's Law of Contract*, OUP, 28th ed, 2002.

Ordinances

Sales of Goods Ordinance (Cap 26).

Supply of Services (Implied Terms) Ordinance (Cap 457).

Control of Exemption Clauses Ordinance (Cap 71).

Misrepresentation Ordinance (Cap 284).

Unconscionable Contracts Ordinance (Cap 87).

Law Amendment and Reform (Consolidation) Ordinance (Cap 23).

Online Resources

Bilingual Laws Information System at www.legislation.gov.hk