



Syllabus

Contracts

(Revised October 2022)

Candidates are advised that the syllabus may be updated from time-to-time without prior notice.

Candidates are responsible for obtaining the most current syllabus available.



Contracts

COURSE SYLLABUS

This is a course in the Canadian law of contract. Contract law is a foundational course in Canadian law school programs. An understanding of the issues surrounding contract formation, breach, and performance is essential to the understanding of much of commercial law, labour and employment law, real estate law, business law, and many other legal subjects. This syllabus is designed to give candidates sufficient exposure to the law of contract to grasp it and to apply it competently in the practice of law.

The function of the Contracts examination is to determine whether candidates have acquired a proficiency in the main doctrines of contract law that apply in Canada. Proficiency entails not only knowledge of the legal rules, but also an ability to apply the law to resolve practical problems. This requires an ability to identify issues, to generalize from the assigned cases and materials, and an ability to explain why the outcome being advanced is correct. In other words, candidates are expected to do more than spot issues and regurgitate legal rules. Candidates are expected to solve legal problems.

The examination in this course includes problem-based questions that require candidates to analyze fact patterns, to apply the relevant law to the facts, and to reason to a conclusion. The examination may also contain multiple-choice questions and/or short-answer problems that require candidates to demonstrate their facility with contractual principles by critically evaluating the law, or by discriminating between sound and unsound arguments and propositions.

MATERIALS

Required

S. Ben-Ishai and D. Percy, *Contracts: Cases and Commentaries*, 11th ed., (Toronto: Thomson Reuters, 2022)

Supplementary Reading

J.D. McCamus, *The Law of Contracts*, 3rd ed., (Toronto: Irwin Law, 2020)

A. Swan, J. Adamski, A. Na, *Canadian Contract Law*, 4th ed., (Toronto: Lexis-Nexis, 2018)

S. Waddams, *The Law of Contracts*, 6th ed., (Toronto: Canada Law Book, 2010)



ASSIGNED READINGS

The prescribed readings for the course are found in the assigned casebook, *Contracts: Cases and Commentaries*, 11th ed., edited by S. Ben-Ishai and D. Percy. Most of the casebook is required reading, but some parts have been excluded. The relevant page assignments are set out in the table below. (Candidates should read both the cases and the commentary in the assigned pages of the casebook.)

Most students find it useful to consult a treatise or textbook when learning a new area of law. There are several good texts on Canadian contract law, some of which are listed above (see “Supplementary Reading”). The text by J.D. McCamus, *The Law of Contracts*, 3rd ed. (Toronto: Irwin Law, 2020) is highly recommended, and in the table below cross-references are supplied from each topic to the relevant sections of the McCamus text.

The textbook readings are recommended as a useful adjunct to the prescribed readings from the casebook. However, the text is no substitute for the prescribed casebook readings. A study of the text alone will not properly equip you for the examination in this course.

Knowledge of the prescribed readings is essential to passing the examination in this course. The examination will be based exclusively on these materials. Candidates who have acquired their knowledge of the law of contract from a course based on different materials are unlikely to be equipped to pass the examination in this course.



CB = Casebook: S. Ben-Ishai & D. Percy, <i>Contracts: Cases and Commentaries</i>, 11th edition Textbook: J.D. McCamus, <i>The Law of Contracts</i>, 3rd edition		
Topic	Cases & Commentary*	Textbook**
Introduction	CB: 1-16	Chapter 1
Indigenous Peoples and Contracts	CB: 20-24 CB: 29-39	-
Offer and Acceptance	CB: 39-146	Chapter 2
Certainty of Terms	CB: 147-169 CB: 180-186	Chapter 3
Enforcement of Promises	CB: 189-209 CB: 214-232 CB: 240-261 CB: 269-312	Chapter 6(B), Chapters 4, 7, 8
Privity of Contract	CB: 313-325 CB: 337-352	Chapter 9
Contingent Agreements	CB: 370-378	Chapter 17
Representations & Terms	CB: 383-413 CB: 437-462 CB: 468-494	Chapter 6(D), Chapter 10, 15, 16, 18
Interpretation	CB: 508-525	Chapter 19
Exclusion Clauses	CB: 558-596	Chapter 6(C), Chapter 20
Mistake	CB: 597-635 CB: 654-665	Chapter 13
Frustration	CB: 681-707 CB: 722-726	Chapter 14
Protecting Weaker Parties	CB: 760-782	Chapter 11
Illegality and Public Policy	CB: 791-794 CB: 812-825	Chapter 12
Remedies	CB: 833-1011	Chapters 22, 23, 24
<i>* Prescribed reading</i> <i>** Recommended, not required reading.</i>		



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Online Resources

The majority of case law and legislative resources needed by NCA students are available on CanLII, the free legal information resource funded by the Federation of Law Societies of Canada (www.canlii.org). That includes all decisions of the Supreme Court of Canada, and all federal, provincial, territorial and appellate courts.

Your registration fee also includes free access to the Quicklaw resources of Lexis Nexis. Your ID and password will be arranged and emailed to your email address on file a few weeks after the end of the registration session.

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