



higher education
& training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA



GAUTENG
Community Education and Training
CET COLLEGE

Economics and Management Sciences: EMSC4 LESSON 4

Unit Standard: 13995 – Explain and discuss contracts

At the end of the lesson, learners must be able to:

- Define the term contract.
- Identify and explain elements of a contract.
- Explain the condition and purpose of the contract.
- Demonstrate an understanding of contractual obligations.





1. EXPLANATION OF CONTRACT

- A contract is an **agreement** between two or more **parties** (people or businesses) to perform something which is enforceable by law.
- A contract can either be in **writing** or **verbally**.
- The contracting people or businesses which enter into an agreement/ contract are called **parties** e.g. In a Rental contract we have a **landlord** and a **tenant**.

2. COMPONENTS OF A CONTRACT ARE IDENTIFIED AND EXPLAINED

2.1.1 **Parties involved** - people or business that are agreeing to enter into a contract e.g. Edgars and account holder (MR Mkhize JJ).

2.1.2 **Date** - the day of the signing or commencement of agreement.

2.1.3 **Objectives** - the reasons for the contract and the goals that must be achieved by parties involved.

2.1.4 **Expiry date**- when does the agreement end.

2.1.5 **Responsibilities**-what is to be done by each party involved.

3. CONDITIONS AND PURPOSE OF CONTRACTS ARE EXPLAINED

The purpose of a contract is to serve as evidence and guidance for the protection of all parties involved.

3.1 **Offer** - there should be something to be sold or bought

3.2 **Acceptance** - the other party must take what is being offered without being coerced.

3.3. **Legality**- the contract must be lawful e.g. you can't enter into a contract to commit crime.

3.4 **Consensus**- means that parties must agree on the following:

3.4.1 What is being sold e.g. motor vehicle?

3.4.2 The condition of the goods or services being sold e.g. selling a new motor vehicle or a second hand which normally is sold voetstoots (i.e. . In the condition as it is).

3.4.3 The price of goods or services being sold e.g. R40 000 for motor vehicle

3.4.4 Possession of goods that is agreeing on when the buyer takes the goods.

3.4.5 When will payments be made for goods or services that were agreed upon?

DIFFERENT TYPES OF CONSENSUS

Real	Presumed	Consensus because of the law
Where parties act in a manner in which it was agreed e.g. paying rent that was agreed upon.	Where parties have agreed on many issues and the other party acts on something that he/she assumes that it is acceptable	-Common law -Legislation -Trade usage

3.5 **Contractual capacity**-the ability of parties to enter into a legal contract.

4. AN UNDERSTANDING OF CONTRACTUAL OBLIGATIONS IS EXPLAINED

4.1 **Obligation**-what a party in a contract must do e.g. a landlord must give permission to enjoy/use the property that is being leased and the tenant must pay rent.

4.2 Tabular form of people with no contractual capacity and people with limited contractual capacity.

*No contractual capacity means that a person cannot enter into a contract

*Limited contractual capacity means that a person can enter into contract provided they meet the required standard/conditions.

No contractual capacity	Limited contractual capacity
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-A minor under the age of 18. -A mentally incapacitated -People under the influence of drugs.	-A person under 21 but emancipated -Married in community of property consent of partner is needed. -Prodigal is assisted by a curator. -Insolvent person.
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EXPLANATION OF CONCEPTS

- Clause - is a specific aspect related to the overall subject matter that aims on defining the duties, rights and privileges that each party has under the contract.
- Curator - a person appointed by a court of law to act on behalf of a person who was declared incapable of handling their own affairs.
- Emancipation - having economic means to act or conduct business without the supervision of parents or guardians. e.g. a person under the age of 18 can develop a computer programme and be able to sell it and manage every aspect that has to do with the developed programme without the assistance of guardian.
- Insolvent - a court has declared that an individual/business liabilities are more than the assets.
- Minor- any person under the age of 18
- Prodigal -a person who cannot take care of his/her finances e.g. a person addicted to gambling to an extent that the gambling habits makes them not to pay important debts e.g. child maintenance, rates and taxes, water and electricity, food etc. .

Activity 4

Answer the following questions

1. Define the term contract. (3)
2. Explain what does contractual capacity mean. (3)
3. In a tabular form give a description between people who have full contractual capacity and those who have limited contractual capacity (two from each). (8)
4. A person under the age of 18 is referred to as a? (2)
5. Can a person who is under the influence of alcohol be party to a contract? Answer 'Yes or 'No 'and motivate your answer. (4)

Total (20)