UNLOCKING THE LAW

UNLOCKING CONTRACT LAW

4th edition

Chris Turner

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Contents

Acknowledgements

The books in the Unlocking the Law series are a departure from traditional law texts and represent one view of a type of learning resource that the editors always felt is particularly useful to students. The success of the series and the fact that many of its features have been subsequently emulated in other publications must surely vindicate that view. The series editors would therefore like to thank the original publishers, Hodder Education, for their support in making the original project a successful reality. In particular we would like to thank Alexia Chan for showing great faith in the project and for her help in getting the series off the ground. We would also like to thank the current publisher, Routledge for the warm enthusiasm it has shown in taking over the series. In this respect we must also thank Fiona Briden, Commissioning Editor for the series for her commitment and enthusiasm towards the series and for her support.

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Guide to the book

In the *Unlocking the Law* books all the essential elements that make up the law are clearly defined to bring the law alive and make it memorable. In addition, the books are enhanced with learning features to reinforce learning and test your knowledge as you study. Follow this guide to make sure you get the most from reading this book.

AIMS AND OBJECTIVES

Defines what you will learn in each chapter.

SECTION

definition

Find key legal terminology at-a-glance.

Highlights sections from Acts.

ARTICLE

Defines Articles of the EC Treaty or of the European Convention on Human Rights or other Treaty.

CLAUSE

tutor tip

Provides key ideas on how to get ahead from lecturers.

Shows a Bill going through Parliament or a draft Bill proposed by the Law Commission.

CASE EXAMPLE

Illustrates the law in action.

JUDGMENT

Provides extracts from judgments on cases.

Indicates that you will be able to test yourself further on this topic using the Key Questions and Answers section of this book on www.unlockingthelaw.co.uk.

QUOTATION

Encourages you to engage with primary sources.

ACTIVITY

Enables you to test yourself as you progress through the chapter.

student mentor tip

Offers advice from law graduates on the best way to achieve the results you want.

SAMPLE ESSAY QUESTIONS

Provide you with real-life sample essays and show you the best way to plan your answer.

SUMMARY

Concludes each chapter to reinforce learning.

Preface

The 'Unlocking the Law' series on its creation was hailed as an entirely new style of undergraduate law textbooks and many of its ground-breaking features have subsequently been emulated in other publications. However, many student texts are still very prose dense and have little in the way of interactive materials to help a student feel his or her way through the course of study on a given module.

The purpose of the series has always been to try to make learning each subject area more accessible by focusing on actual learning needs, and by providing a range of different supporting materials and features.

All topic areas are broken up into manageable sections with a logical progression and extensive use of headings and numerous sub-headings as well as an extensive contents list and index. Each book in the series also contains a variety of flow charts, diagrams, key facts charts and summaries to reinforce the information in the body of the text. Diagrams and flow charts are particularly useful because they can provide a quick and easy understanding of the key points, especially when revising for examinations. Key facts charts not only provide a quick visual guide through the subject but are also useful for revision.

Many cases are separated out for easy access and all cases have full citation in the text as well as the table of cases for easy reference. The emphasis of the series is on depth of understanding much more than breadth of detail. For this reason each text also includes key extracts from judgments where appropriate. Extracts from academic comment from journal articles and leading texts are also included to give some insight into the academic debate on complex or controversial areas. In both cases these are highlighted and removed from the body of the text.

Finally the books also include much formative 'self-testing', with a variety of activities ranging through subject specific comprehension, application of the law and a range of other activities to help the student gain a good idea of his or her progress in the course. Appendices with guides on completing essay style questions and legal problem solving supplement and support this interactivity. Besides this a sample essay plan is added at the end of most chapters.

A feature of the most recent editions is the inclusion of some case extracts from the actual law reports which not only provide more detail on some of the important cases but also help to support students in their use of law reports by providing a simple commentary and also activities to cement understanding.

Contract law is actually a very relevant and useful area of law. We are all constantly forming different contractual relationships even though we might not think about them in that manner. An understanding of the basic rules of contract in any case is essential for a full understanding of other areas such as commercial law and employment law. Since Contract Law is also in the main a common law area much of this book is devoted to cases and case notes, and these are separated out in the text for easy reference.

The book is designed to cover all of the main topic areas on undergraduate, degree-equivalent and professional contract syllabuses and help provide a full understanding of each.

I hope that you will gain as much enjoyment in reading about the Contract Law, and testing your understanding with the various activities in the book as I have had in writing it, and that you gain much enjoyment and interest from your study of the law.

The law is stated as I believe it to be on 1st August 2013.

Chris Turner

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1

The origins and character of contract law

1.1 The origins and functions of the law of contract

1.1.1 Development of the law of contract

Much of the modern law of contract developed in the nineteenth century and derives from the *laissez-faire* principles of economics that characterised the Industrial Revolution.

Nevertheless, the origins of contract law are much more ancient than that and are to be found in the early common law of the Middle Ages. The main preoccupation of society at that time was land ownership and law developed very quickly in relation to the protection of ownership of land or of interests in land. As a result, the law of that time was also mainly concerned with property rights.

The distinction that the law drew in terms of identifying the enforceability of rights was between formal agreements and informal ones. A formal agreement was one made in writing and which was authenticated by the practice of 'sealing'. This is the origin of the deed, which was the method accepted for transfer of land and interests in land up to 1989, when the requirement to complete the document by the process of sealing was relaxed in favour of the already common practice of witnessing the document.

agreement
The first requirement for a validly formed contract which involves a valid offer by one party being followed by a valid acceptance by the other

Two principal types of formal **agreement**, which were required to be under seal to be enforceable, developed during the twelfth century:

- A covenant – such an agreement was usually to do something, for example an agreement to build a house. The available remedy that developed in relation to such agreements was specific performance.
- A formal debt – this was again an agreement under seal, but to pay a sum of money. This agreement was actionable as an 'obligation' and the available remedy was the payment of the debt.

detinue
In early contract law an action for delivery of a chattel

assumpsit
An old form of enforcing an undertaking to carry out a promise

consideration
The thing (or promise) given by a party to a contract in exchange for what the other party gives (promises to give)

Informal agreements also gradually gained the recognition of the law. These became known as 'parol' agreements, following the simple meaning of the word at the time: 'by word of honour'. The clear problem with informal agreements was the availability of proof of their actual existence in order for the parties to be able to enforce their provisions.

Two particular actions developed for informal agreements:

- An action for debt – this was usually an oral agreement for the sale of the goods, and the remedy sought was usually the price of the goods
- **Detinue** – this was a claim in respect of a chattel due to the person bringing the action, for instance for delivery of a horse or other livestock.

The more modern law of contract begins with the law of '***assumpsit***' in the fourteenth century. This had its origins in the tort of trespass, and was an action in respect of the breach of an informal promise. The *assumpsit* was the undertaking to carry out the promise.

Moving even further forward in time, one of the most essential requirements of modern contract law, the doctrine of **consideration**, was also established. The consideration was the reason for the promise being given, and was based on the assumption that nobody does anything for nothing.

1.1.2 The purposes of contract law

People make contracts all the time, whether individually or within the framework of a business activity. In this way there are inevitably many different types of contracts and the contracts may satisfy different purposes. However, it is possible to identify an overriding purpose as identified in the following quote:

QUOTATION

'… contract law has many "purposes", but the central one is to support and to control the millions of agreements that collectively make up the "market economy".'

H G Beale, W D Bishop and M P Furmston, Contract Cases and Materials *(4th edn, Butterworths, 2001)*

In a market economy, everything depends on an exchange of resources, whether that means the sale and purchase of goods or services or the payment of a wage in return for labour. In some instances, the exchange takes place immediately but more often the exchange is based on a set of promises, for example the promise to deliver goods in return for the promise to pay for them after they are delivered.

term
An obligation under a contract

Contract law tends to be the means of supporting the bargain and of ensuring that there will be a remedy if the agreement is not carried out according to the **terms** laid down by the parties. By developing a body of rules to deal with specific situations it also gives parties who contract a set of guidelines by which they can safely contract in the future without having to negotiate each separate aspect of the contract. The rules, then, not only identify how the parties must behave in order to say that they have formed a valid and enforceable contract; they also identify things that the parties must not do in order to achieve the contract, such as misrepresenting the truth of the agreement being reached. In essence, then, the law of contract gives contracting parties a framework to operate within and a means of finding a remedy when things go wrong.

However, the function of the law of contract is to balance out the interests of a free market and the protection of the weaker parties to contracts. Generally, this would be through consumer protection of one sort or another.

Adams and Brownsword identify that

QUOTATION

'… market-individualism enshrines the landmark principles of "freedom of contract" and "sanctity of contract", the essential thrust of which is to give the parties the maximum licence in setting their own terms, and to hold parties to their freely made bargains.'

In pursuit of this aim they suggest that judges 'should offer no succour to parties who are simply trying to escape from a bad bargain [as this] results in an economically efficient use of resources'. On the other hand, they identify that the need to protect consumers also means that judges must ensure that

QUOTATION

'… contracting parties should not mislead each other, that they should act in good faith, that a stronger party should not exploit the weakness of another's bargaining position, that no party should profit from his own wrong or be unjustly enriched, that remedies should be proportionate to the breach, [and] that contracting parties who are at fault should not be able to dodge their responsibilities.'

R Brownsword and J N Adams, Understanding Contract Law *(Fontana, 1987) pp 52–53*

Inevitably, what this also means is that judges will also engage in policy decisions with the following result, as identified by Beale, Bishop and Furmston:

QUOTATION

'In some cases the control takes the form of frustrating the parties for the good of the rest of society.'

H G Beale, W D Bishop and M P Furmston, Contract Cases and Materials *(4th edn, Butterworths, 2001)*

There are many areas of contract law where we can identify underlying policy.

1.1.3 The character of modern contracts

It is quite usual for non-lawyers to assume that a contract is an official agreement of some kind that is written down, and that has probably even been prepared by a lawyer. This, of course, is not the case. We all make many contracts every day, even though we rarely put them into writing or contemplate the consequences of making them. In fact, we generally take the situation for granted and it is not until such time as we realise that we have not got what we bargained for that we begin to think in terms of any rights attaching to the transaction.

For instance, this morning I had to go to London. I parked my car in the multi-storey car park at Wolverhampton station, taking the ticket from the machine at the entrance.

Inside the station, I bought a newspaper. On the train, I bought a cup of coffee in a sealed container and a packet of crisps.

There is nothing exceptional about any of these events. I gave no thought to contract law in relation to any one of them, but I was making a contract in every case.

However, the implications of the various transactions and the significance of contract law become apparent if in each case I do not get what I bargained for. If, for instance, on opening the newspaper I discovered that only the cover pages were printed on, or on drinking it that the coffee was in fact tea, or on eating them that the crisps were mouldy, or finally that on returning from London I found my car had been badly damaged in the car park, I would want at least my money back, and probably some other form of remedy. At that point I would be very eager to know about the contractual nature of the arrangements that I had made in each case.

The thing that distinguishes a contract in the modern day, then, is not necessarily whether it is in a written agreement, even though this may have been absolutely critical in former times. The significant point is that there is in fact an agreement made between two parties, by which they are both bound, and which if necessary can be enforced in the courts. Of course, many agreements will be in written form. However, many more will merely be made orally, and of course some may even be made by conduct, as is often the case in auctions. Such contracts are called simple contracts.

Some contracts, because of their nature, have to be in writing or in other cases there should at least be evidence of the existence of the contract in writing. These contracts we call speciality contracts, and the most common is a contract for the transfer of land, but these are beyond the scope of this book.

A contract is essentially a commercial agreement, an agreement between two parties which is enforceable in law. It is based on the promises that the two parties make to each other. However, while the law rightly protects many of the promises that we make to one another, not all promises are contractual. For instance, a beneficiary under a will has in effect been promised that inheritance and has a legal right to receive it. The will is not, however, covered by contract law. The heir has promised nothing in return for the inheritance.

A contract can alternatively be described as a bargain. One party makes a promise in return for the promise of the other and the promises are mutually enforceable because of the price that one party has paid for the promise of the other.

Many of the rules of contract law came about in the nineteenth century. At that time, people believed very much in the idea that there was freedom of contract. This is a nice idea, that we are all free to make whatever contracts we want, on whatever terms we want.

It does not, of course, bear much relationship with reality. Commonly, the two parties to a contract have unequal bargaining strength. A prospective employee at interview is rarely telling the prospective employer what conditions he is prepared to work for, but is trying to impress to get the job.

Consumers too, even though they may have a choice of where to buy from, will rarely negotiate the terms of the transaction they are making. More often than not, in the present day, contracts with businesses will be done on the latter's 'standard forms'.

As a result of this, Parliament in the twentieth and early twenty-first centuries has produced many laws inserting, or implying, terms into contracts which the parties themselves have not chosen but by which they both are bound.

So the notion of freedom of contract is not as straightforward as it seems, and a party to a contract has to be aware of the numerous contractual obligations by which he will be bound other than those which he has personally negotiated.

1.1.4 The reasons that contracts are enforced

As we have seen, then, a contract is an enforceable agreement between two parties. The rules regarding enforceability of agreements obviously grew out of the need for certainty in relationships, whether between businesses or between private individuals. We can none of us safely conduct ourselves without knowing that we are able to rely on arrangements that we have made.

The enforceability of contracts is based on three significant factors:

- An agreement made between two parties creates legitimate expectations in both that the terms of the arrangement will be carried out and that they will receive whatever benefit that is expected from the agreement.
- Parties will commonly risk expenditure or do work in reliance on a promise that a particular agreement will be carried out.
- It is simply unfair that if one party is ready to perform, or indeed has performed, their part of the bargain, the other party should escape or avoid his obligations without some means of redress for the injured party.

1.2 The concept of freedom of contract

Freedom of contract is not just something that we expect – the right to contract with whomever we want and on the terms that we want – it is also at the heart of contract law. In the nineteenth century, when many of the rules of contract law were devised, Britain was subject to what was known as *laissez-faire* economics. In modern times, politicians as well as economists refer to this as 'the market' and there is a prevailing theory that market forces rather than government intervention should dictate the economic relations between people.

The basic proposition in any case is that the parties to a contract should be free to include in a contract whatever terms they choose. In this way the courts will not interfere in contracts by trying to make a bad bargain good. They will merely ensure that there is a bargain and that it has been properly created. Treitel identified this point clearly when he said:

QUOTATION

> 'In its most obvious sense, the expression "freedom of contract" is used to refer to the general principle that the law does not restrict the terms on which the parties may contract: it will not give relief merely because the terms of the contract are harsh or unfair to one party.'
>
> *G H Treitel*, An Outline of the Law of Contracts *(5th edn, Butterworths, 1995)*

The idea of freedom of contract is central to enforcement of contracts and it runs through many of the individual rules of contract law:

consensus ad idem

The agreement between the parties– literally a meeting of minds

- An agreement (offer and acceptance) is said not to exist unless there is a ***consensus ad idem***, the so-called mutuality of the parties. So even though the parties think that they have agreed on something, there will not be an enforceable contract between them unless this mutuality can be shown. The law prevents one party from forcing goods and services on another party without an actual agreement to take them. This is apparent in the common law rules on acceptance as well as in statutes such as the Unsolicited Goods and Services Act 1971.
- Contract law only concerns itself with the enforcement of bargains. The rules on consideration, including the most modern case law such as *Williams v Roffey Bros &*

Nicholls Contractors Ltd [1990] 1 All ER 512, demonstrate that the courts are not interested in the quality of the bargain that parties freely reach. They are merely concerned with the existence of a bargain that is then enforceable.

- The requirement that an enforceable agreement must also include within it the intention that the parties are legally bound is another example of freedom of contract. Many agreements are reached between parties where they would not consider that they had brought themselves within the law. We are free to make contracts where we agree to be bound. We will not be bound by agreements that we never intend should carry any legal weight. Even if it is wrong that we break these agreements, it is equally wrong that we should be hauled before the courts for a promise that has no legal basis which for some reason we cannot keep, and the law sensibly recognises this.
- Freedom of contract is recognised also in the fact that many of the terms or obligations of the contract by which the parties are then bound are decided upon by the parties themselves. Where bargaining strength is equal, the law will even allow terms that are clearly disadvantageous to a party if he freely agreed to be bound by it. A very extreme example of this can be seen in the so-called '*Securicor* cases' in exclusion clauses (see section 7.2.2).
- Even though the court can be seen to be operating in a protectionist manner towards one party, the rules relating to the various **vitiating factors** are in effect another example of freedom of contract. This relates back to the idea of a *consensus ad idem*. If a party is entering a contract only because of false information, or being mistaken as to material facts, or is in any way coerced to enter the contract, then the law will declare the contract void or will set it aside. This will happen because the basis of contracting must be that a party enters the arrangement with free will and by exercising choice.
- Freedom can even be seen in one sense in the rules on **discharge**. For instance, where a party has failed to perform all obligations under the contract precisely, it may still be possible for the other party to accept part-performance, and inevitably to pay only for the part done or given. In the same way, the rules on **breach** of contract allow a party who is the victim of the breach of a central term to choose between giving up his own obligations or continuing with the contract, if it would be advantageous, and merely gaining compensation for the breach in question.

vitiating factor
A defect that renders an otherwise validly formed contract void or voidable

discharge
How a contract comes to an end

breach
A failure to honour the obligations under the contract

As the law of contract has developed, however, it has also been recognised that the parties to a contract cannot be given unlimited freedom and the law has in many instances intervened to give greater protection to the parties. There are a number of reasons for this:

- It is recognised that very often the parties are of unequal bargaining strength and therefore one party would be able to dictate the terms of the contract, possibly at the expense of the weaker party.
- Particularly since the middle of the twentieth century, judges, Parliament and, more recently, the European Union have all been concerned to give greater protection to consumers to avoid them being taken advantage of by unscrupulous businessmen in contracts that are driven more by the profit motive of business rather than the individual needs of consumers.
- It would be unfair to allow one party to take advantage of the other party's **mistake** or to take advantage of a falsehood, or to allow one party to coerce the other party to enter the contract against his will.
- In certain instances either the courts or Parliament have recognised that it is unacceptable or inadvisable to allow parties to enter specific types of contracts.

mistake
A wrong assumption made by one or more parties to a contract on entering the contract

There are many examples of this protectionism. An obvious example from the common law would be the rules on undue influence that have been developed by the courts in relation to wives who have agreed to allow property jointly owned with their husbands to be used as security for loans. There are many examples of protectionism in statute, usually falling under the general classification of consumer protection (see section 1.4).

1.3 Contract law compared with other areas of law

1.3.1 Contract law compared with tort

Sometimes both the law of contract and the law of torts are seen as a general law of 'obligations'. Certainly, both branches of the law compensate victims for the harm done to them. Both branches of the law are also ultimately based on duties owed by one party to another.

The traditional distinction between the two is the character of the duty owed. In the case of torts, specific duties are imposed by law and apply to everyone. In contract law, the duties are imposed by the parties themselves and operate only to the extent agreed upon before the contract was formed. Similarly, in the case of tort the duty is usually owed generally to all persons likely to be affected by the tort. In contract law, on the other hand, the duty is only to the other party to the contract.

1.3.2 The interrelationship between contract law and tort

Nevertheless, the distinction is not always so clear and there are many complications and overlaps. In the law of contract many duties are now imposed on parties by statute and as a result of EU law, irrespective of the actual wishes of the parties to the contract. This has been particularly the case in the area of consumer contracts. In the law of torts, in those situations where the law does allow recovery for a pure economic loss, the distinction between the two again is somewhat blurred.

There can be overlap too in areas such as product liability where there can be claims for negligence and also for breach of implied statutory conditions under the contract. In such circumstances a choice is sometimes made whether to sue a manufacturer in tort or a supplier under contract law.

Similar complications have arisen in the field of medicine. Normally, we would expect legal actions to be brought in medical negligence in tort. However, where a patient has taken advantage of private medicine the rules of contract law can be invoked if they may have a more satisfactory answer – if, for instance, the contractual duty is higher than the duty in tort.

Difficulties can also arise because of the doctrine of privity in contract law and the exceptions to it, although legislation has removed some of the hardships here. However, the absence of a contractual relationship again may not prevent an action being brought for a breach of a duty in tort if such a duty exists.

1.3.3 Contract law compared with criminal law

Contract law is very obviously different from criminal law in the same senses that all areas of civil law differ from the criminal law. The differences can be used as an example generally of the differences between criminal law and civil law.

- The whole context of the case is different – the criminal law involves the regulation of behaviour that is unacceptable to the state, while civil law involves the resolution of disputes between two parties (in the case of contract law, a dispute over a contract).
- The purpose of the action is different. In criminal law the purpose is to preserve order in the community. Civil law seeks to regulate relationships and settle disputes (eg, a breach of contract).
- The parties are completely different. In criminal law the state prosecutes a defendant. In civil law, as in a contract action, a defendant answers a claim from a claimant.
- The standard of proof is also different. In criminal law, because a defendant's liberty may be at stake, the prosecution must prove the case beyond a reasonable doubt. In contract actions, on the other hand, as in civil actions in general, the claimant has to prove his case only on a balance of probabilities.
- The potential resolution of the action differs also. A successful criminal trial results in a conviction and subsequent punishment with whatever appropriate sentence. In contract law, as in other civil law actions, a successful claimant will have proved the defendant liable and the defendant must then provide a remedy, often **damages**.
- Besides this, of course, the range of courts in which actions may be heard also varies. Criminal trials will be in either the Magistrates' Court or the Crown Court, depending on the seriousness of the offence. A contract claim could, if seeking under £5,000 worth of damages, be sought under the small claims procedure in the County Court by the claimant himself. Alternatively, depending on the value and complexity of the action, it could be sought under the fast-track procedure in the County Court or the multi-track procedure in either the County Court or the High Court.

damages
A common remedy for a breach of contract – a sum of money compensation aiming to put the injured party in the position he would have been in had the contract been properly performed

Nevertheless, this is not to say that the criminal law has absolutely no relevance for problems arising out of contractual relationships. Particularly in the protection of consumers, the criminal law can be used for the regulation of contracts and the ultimate protection of the consumer. A number of statutes, as well as certain statutory instruments, employ the criminal law as an enforcement mechanism. These include the Consumer Credit Act 1974, the Consumer Protection Act 1987, the Food Safety Act 1990, the Package Travel, Package Holidays and Package Tours Regulations 1992, the Trade Descriptions Act 1968, the Weights and Measures Act 1985 and the Consumer Protection (Distance Selling) Regulations 2000, to name but a few.

The use of the criminal law in this way in the context of consumer contracts is very significant. This is because it gives bodies such as Trading Standards Departments the power and the opportunity to take a more proactive as well as a deterrent role in enforcing appropriate standards of contracting in a consumer context. This is so significant because the consumer in most instances is at a disadvantage, being the weaker party in the bargain.

1.4 Contract law and the protection of consumers

caveat emptor
means 'let the buyer beware' – so is a principle of freedom of contract

The law of contract was traditionally concerned only with the existence of and the simple regulation of bargains made between individuals. In the nineteenth century this meant that the maxim ***caveat emptor*** was influential throughout the law.

During previous centuries, this might have been appropriate. Communities were for the most part rural, the master/servant relationship mirrored the realities of economic activity, and there was little in the way of a consumer society. However, in the twentieth century there was a great increase in spending power, the traditional

economic relationships changed and the nature of society made a lot of the traditional rules unfair or unworkable.

In the last third of the twentieth century, consumer groups began to emerge to press for fairer treatment and protections. Judicial attitudes to certain contractual rules developed towards the protection of consumers and Parliament also introduced legislation to give greater consumer protection. Finally, membership of the EU has also led to the introduction of a number of significant protections.

Consumer protection (consumer law) is a significant area of law in its own right. As well as contract law, statutory and EU interventions and other common law developments have meant that the area as a whole must be seen to include both tort and criminal law. Nevertheless, there have been significant developments for the protection of the consumer that relate specifically to contract law. These include:

exclusion clause
A term of a contract inserted by a party to exclude liability for their contractual breaches or possibly their negligence

minor
A person under the age of eighteen

- The rebuttable presumption of an intention to create legal relations in a commercial contract.
- The attitude of the courts towards expert opinions when incorporating terms into contracts (compare *Oscar Chess Ltd v Williams* [1957] 1 WLR 370 and *Dick Bentley Productions Ltd v Harold Smith (Motors) Ltd* [1965] 1 WLR 623).
- The common law protection against excessively unfair terms in *Interfoto Picture Library v Stiletto Visual Programmes Ltd* [1988] 2 WLR 615.
- The implied terms in statutes such as the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 and also in the more recent Consumer Protection (Distance Selling) Regulations 2000.
- The controls on **exclusion clauses** provided by the common law, by Parliament through the Unfair Contract Terms Act 1977, and ultimately as a result of membership of the European Union through the Unfair Terms in Consumer Contracts Regulations 1999.
- The common law and statutory rules protecting minors by declaring certain contracts void or allowing the **minor** to avoid the consequences of certain other contracts.

1.5 The effects on contract law of membership of the EU

It would be difficult to overemphasise the significance of membership of the EU to any area of English law concerned with economics. Students of employment law, company law, commercial law and general consumer law all need a good appreciation of the effects of EU law and of the influence of treaty articles, directives and regulations on English law, in order to have a good understanding of their subjects.

Contract law is no exception. Since the UK first became a member on 1st January 1973, after signing the treaties and passing the European Communities Act 1972, there have been a number of initiatives leading to changes and developments within English contract law.

Not all of these developments, but certainly many of them, have had particular impact on consumer protection. Not every individual aspect of contract law has been affected but in various chapters the significant influences of EU law will become apparent.

- In the case of agreement (offer and acceptance), the Consumer Protection (Distance Selling) Regulations 2000 have been introduced, affecting the way that we form contracts through modern electronic means. The regulations were introduced to implement provisions of the EU Directive 97/7, the Distance Selling Directive. The Electronic Commerce Directive 2000/31 also demands a specific form of acknowledgement in electronic selling.