

Kalsung for VT200,000. Kalsung takes the car and tells Tom that he will pay him VT200,000 by the end of the month. The end of the month arrives and Kalsung has not yet paid Tom VT200,000. Kalsung has *breached* the contract.

If you are involved in a dispute about a contract, you should speak to a lawyer. If you cannot afford a private lawyer, you should contact the Public Solicitor's Office. A lawyer may be able to assist you to resolve the dispute, or to take the matter to court if it cannot be resolved. The Court may be able to help the party who is not in breach of the contract (in the example given above, this would be Tom).

What can the Court do?

Depending on the type of contract that has been made, if one party has breached a contract, the Court can help the other party in the following ways:

- order the party who breached the contract pay to the other party any money that is owed under the contract;
- order the party who breached the contract to pay for any loss that has been caused to the other party as a result of the breach of contract; and/or
- order the party who breached the contract to do what they agreed to do under the contract.

For more information contact:

Public Solicitor's Office

PO Box 794
Port Vila
Phone: 23450

USP Community Legal Centre

PMB 9072
Port Vila
Phone: 27026
Fax: 25543

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The information contained in this brochure is only intended as a guide to the law and is not a substitute for obtaining legal advice. If you have any further questions we strongly suggest you seek legal advice.

Note: This information applies to people who live in, or are affected by, the law as it applies in Vanuatu.
The information in this brochure is current as at 30 June 2006.

University of the South Pacific Community Legal Centre
PMB 9072 Port Vila VANUATU Ph: 27026 Fax: 25543
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Contracts



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What is a contract?

A contract is a legally binding agreement between two or more parties. In other words, it is an agreement that can be enforced in court if one party fails to do what they agreed to do.

Three common types of contracts are contracts for the sale of goods, contracts for services, and contracts of employment.

Contracts for the sale of goods

Examples of contracts for the sale of goods include:

- when you buy or sell a car;
- when you buy or sell food or other items from the market, store or supermarket; or
- when you buy or sell kava, meat, coconuts or copra.

Contracts for services

Examples of contracts for services include:

- when you pay for a haircut;
- when you take your car to be fixed by a mechanic; or
- when a builder agrees to build you a house or repair your house.

Employment contracts

An employment contract is an agreement between two parties that one will work for the other as an employee, in return for wages or salary.

Who can enter into a contract?

In Vanuatu, only people who are above the age of 18 can make a legally binding contract. People below this age are known as ‘minors’ and cannot be bound by any contract they enter into.

A contract does not have to be entered into by an individual person. Companies and government agencies may also enter into contracts with other companies or with individuals.

Does a contract have to be written down?

No. There is no requirement that a contract be in writing. The exception is a contract relating to land (for example, a lease agreement). A contract relating to land must be in writing if you want to enforce it in court.

Although there is no requirement that a contract be written, it will be easier to resolve any disputes about what the parties agreed to if the agreement is written down on paper in a way that clearly reflects what the parties agreed.

A contract may be:

- spoken (“verbal”);
- written;
- implied from the actions of the parties in the circumstances; or
- a combination of these things (e.g. partly spoken and partly written).

What are the elements of a contract?

For a contract to exist, there must be:

- an offer by one party to do or give some-

thing;

- acceptance of that offer by the other party; and
- “consideration”. Consideration is what each party agrees to do or give in exchange for what the other party is providing under the agreement. If one party is not agreeing to give something (e.g. money or goods) or do something for the other party, then there is no contract.

The offer and acceptance can be made in words or writing. In many cases, the offer, acceptance and consideration are implied from the conduct of the parties.

What are the terms of a contract?

The terms of a contract are the things or matters that the parties agree to. The terms may also include details such as how, when and where they agree to do these things. Terms may be either express (i.e. spoken or written) or implied from the conduct of the parties in the circumstances. The law also implies particular terms in certain types of contract.

An example of a contractual term is the price at which something is to be sold or a service is to be provided. This is a very important term in most contracts.

What happens if the contract is broken?

When one party fails to do what they agreed to do, it is known as a “breach” of the contract. In other words, the party has broken the promise that they made under the contract.

For example, Tom agrees to sell his car to