



**SCHOOL OF ACCOUNTING & COMMERCIAL LAW**  
**COML 305 LAW OF CONTRACTUAL OBLIGATIONS**

Trimester One 2008

**COURSE OUTLINE**

**Contact Details**

Lecturers:

Mr Alan Cameron – Academic Co-ordinator  
Room RH 604  
Phone number: (04) 463 5758  
Email: [Alan.Cameron@vuw.ac.nz](mailto:Alan.Cameron@vuw.ac.nz)  
Consultation Hours: By email appointment.

Mr Palitha De Silva  
Room RH 611  
Phone number: (04) 463 6960  
Email: [Palitha.deSilva@vuw.ac.nz](mailto:Palitha.deSilva@vuw.ac.nz)

Administrative Co-ordinator

Hayley Cross  
Room RH 708  
Phone number: 463 5383  
Email: [Hayley.Cross@vuw.ac.nz](mailto:Hayley.Cross@vuw.ac.nz)  
Office hours: Monday-Friday 8.30am-5pm

**Class Times and Room Numbers**

Monday, Tuesday, Thursday 15.40-16.30 pm in RH LT1

Lectures are structured assuming that students have done preparatory readings from required materials/notes indicated in lecturers' outlines. Copies of Mr Cameron's Powerpoint lecture presentations will be available on Blackboard.

Refer to lecture guides provided by lecturers for details of readings, cases, etc for each of the lecture topics given in the following Course Programme.

## **Programme**

1. Introduction: The Institutions of Contract and Contract Law (25, 26, 28 Feb)
2. Formation of Contract (3, 4, 6 March)
3. Content of the Contract: Terms (10, 11, 13 March)
4. Content of the Contract: Interpretation (17, 18, 20 March)
5. Incapacity & Unenforceable Contracts (27 March)
6. Contracts against Public Policy (31 March, 1 April)
7. Unfair Contracts (8, 10 April)
8. Mistake in the Formation of Contracts (28, 29 April, 1 May)
9. Misrepresentation in the Formation of Contracts (5, 6, 8 May)
10. Termination of Contracts: Agreement- Frustration (12, 13, 15 May)
11. Remedies: Cancellation & Damages (19, 20, 22 May)
12. Remedies: Equitable & Restitutionary (26, 27 May)

**Tutorial sign-up** will be via **Blackboard** at **Course COML 305** and should be done during the first week of term. The instructions for signing up are attached at the back of this Course Outline and will also be posted on the Announcements section of **Course COML 305** on Blackboard.

The completed tutorial lists will be posted on **Blackboard**.

## **Course Objectives**

Students passing this Course should be able to:

1. Explain the role of the law of contractual obligations operative in commercial transactions;
2. Describe and explain the structure, basic concepts and principles of New Zealand contract law;
3. Complete an assignment analysing a defined area of law within the field of commercial transactions;
4. Identify contractual issues within a commercial fact situation and apply the relevant law towards the resolution of those issues.

## **Course Content**

The subject of this Course is the general law of contract comprising case law and statutes with specific reference to commercial contracts. The Course examines the rules, principles, doctrines and concepts of contract, aspects of agency law, and non-contractual legal obligations within contractual contexts.

## **Readings**

### Course Materials/Readings (2 vols)

Students can purchase the first set of COML 305 Course Materials from the Victoria Book Centre in Rutherford House at the Pipitea Campus. The second volume will become available during the course prior to the re-commencement of lectures after the mid-trimester break.

### Legislation

Students are required to obtain copies of legislation related to the course topics. The following published hard copy texts can be purchase: CCH *Introduction to New Zealand Commercial Legislation* 2007 which contains mostly contract legislation relevant to this course. Lexis/ Nexis CCH *Contract and Commercial Legislation* 2008 contains in addition legislation relevant to COML 301 (Special Contracts) for those who are taking, or who may wish to take that Course. Legislation can also be accessed on line from the government legislation website: <http://www.legislation.govt.nz/>

### Required Background Reading

Burrows, Finn & Todd, *Law of Contract in New Zealand*, LexisNexis- Butterworths 3<sup>rd</sup> Edition, 2007. This is the set background text for the course.

### Other Reading

Walker, *Student Companion: Contract*, Butterworths, 4th Edition 2004.  
Each lecturer will advise any additional material for his or her part(s) of the Course.

### Handouts

Spare copies of lecture handouts will be placed in the COML 305 boxes in Spare Handouts next to the lifts on Floor 7.

## **Materials and Equipment**

### Materials permitted in examination:

No restriction. Materials brought in may include, amongst other materials, textbooks, legislation, COML 305 Course Materials, and personal notes taken during the Course. Bi-lingual dictionaries may be used, but not English dictionaries. Electronic dictionaries are not permitted.

## **Assessment Requirements**

Assessment 1: **Test** Monday 7 April, Venue: TBA 20%

Assessment 2: A **1500-Word Assignment** (assignment requirements including topic will be handed out in third week of course) (Due 4.30pm Thursday 8 May) - 20%

Assessment 3: A Three-hour **Final Exam** Time & Venue TBA - 60%

The **Test** aims to assess the students' understanding of the basic concepts, principles and rules of selected topics lectured in class and covered in tutorials.

The **Assignment** aims to develop students’ research skills and deepen knowledge in a selected area of law. It requires the undertaking of personal research and provides scope for demonstrating original analysis as well as technical legal skills.

Students are required to strictly adhere to the **Assignment Instructions and Guide** which will be included with the handout containing the Assignment topic. Essays are to be placed in boxes labelled “COML 305” on the Mezzanine floor of Rutherford House.

Extensions to the due date for submitting the assignment will only be granted in exceptional circumstances (e.g. ill health, bereavement or other circumstances beyond your control). “Pressure of work” whether for full- or part-time students will not be accepted as exceptional circumstances. Students seeking an extension should contact the Coordinator of the Course and should produce a doctor’s certificate or other documentary evidence to support their application for extension.

The **Final Exam** aims to assess students’ overall understanding of the basic concepts, principles and rules of selected examinable topics lectured in class and covered in tutorials throughout the entire Course and their application to fact situations. It will consist of compulsory questions, which will be both short essay and problem-type.

**Mandatory Course Requirements**

The **minimum** course requirements which you must satisfy are:

- 1. Completion of the assignment
- 2. Attendance at, and participation in, six out of eight tutorial sessions
- 3. Sitting the Test
- 4. Obtaining a mark of 40% or better in the **Final Exam**
- 5. Overall mark of at least 50%.

Grades are awarded as follows:

A+	85% and over	
A	80-84%	
A-	75-79%	
B+	70-74%	
B	65-69%	
B-	60-64%	
C+	55-59%	
<u>C</u>	<u>50-54%</u>	
D	40-49%}	Fail
E	Below 40%}	Fail

To obtain a grade in the “A” or higher “B” range a student will be expected to have read relevant articles and cases beyond the indicated essential reading and to demonstrate an ability to bring an advanced level of analytical and critical skills to bear on the questions raised.

## **Tutorial Programme**

### Objectives:

1. Deepening and expansion of knowledge of the subject area;
2. Development of analytical and problem-solving skills through case problem exercises;
3. Development of oral skills through class presentations;
4. Development of cooperative group learning.

An eight-week tutorial programme commences in the third week of the course (10 March. See “**Course Programme**” below for schedule of lectures and tutorials). The tutorial programme covers topics which are related to, and approximately in sequence with, the lecture programme. Each tutorial involves discussion of set questions, problems, and analysis of cases and other readings. The emphasis of the tutorials is on depth rather than breadth of knowledge. All members of a tutorial group are expected to adequately prepare for each tutorial session so that they are able to: 1. lead tutorial discussion on topics assigned if called upon to do so in full class or break-out groups; 2 adequately participate in break-out groups within a tutorial; 3. provide answers to questions from the tutor that demonstrate adequate preparation of the tutorial questions and exercises. Tutorials are important for assessments because the questions and exercises in the tutorial programme are used as the basis of questions in both the test and final exam.

Tutors will explain at the first tutorial how the tutorial programme will be run See below “**TUTORIAL SIGN-UP**” for sign-up instructions

### **Communication of Additional Information**

This Course Outline is available, along with other information and materials relating to the course, on the university-wide online **Blackboard** system. Every student is expected to have access to the on-line information for this course and all announcements and notices will be posted in the Announcements section of Blackboard. Students who have problems accessing the course online should contact Student Computing Services or the Administrative Coordinator, Hayley Cross. Lecture guides/outlines and other course handouts, where possible, will be made available on Blackboard.

### **Faculty of Commerce and Administration Offices**

#### Railway West Wing (RWW) - FCA Student and Academic Services Office

The Faculty’s Student and Academic Services Office is located on the ground and first floors of the Railway West Wing. The ground floor counter is the first point of contact for general enquiries and FCA forms. Student Administration Advisers are available to discuss course status and give further advice about FCA qualifications. To check for opening hours call the Student and Academic Services Office on (04) 463 5376.

#### Easterfield (EA) - FCA/Education/Law Kelburn Office

The Kelburn Campus Office for the Faculties of Commerce and Administration, Education and Law is situated in the Easterfield Building on the ground floor (EA005). This counter is the first point of contact for :

- Duty tutors for student contact and advice.
- Information concerning administrative and academic matters.
- Forms for FCA Student and Academic Services (e.g. application for academic transcripts, requests for degree audit, COP requests).
- Examinations-related information during the examination period.

To check for opening hours call the Student and Academic Services Office on (04) 463 5376.

## **Notice of Turnitin Use**

(All courses which make use of Turnitin must inform students prior to collection of work for assessment. The following paragraph (modified as necessary for particular circumstances) should appear in course outlines.)

Student work provided for assessment in this course may be checked for academic integrity by the electronic search engine <<http://www.turnitin.com>>. Turnitin is an on-line plagiarism prevention tool which identifies material that may have been copied from other sources including the Internet, books, journals, periodicals or the work of other students. Turnitin is used to assist academic staff in detecting misreferencing, misquotation, and the inclusion of unattributed material, which may be forms of cheating or plagiarism. *At the discretion of the School, handwritten work may be copy typed by the School and subject to checking by Turnitin.* You are strongly advised to check with your tutor or the course coordinator if you are uncertain about how to use and cite material from other sources. Turnitin will retain a copy of submitted materials on behalf of the University for detection of future plagiarism, but access to the full text of submissions will not be made available to any other party.

## **General University Policies and Statutes**

Students should familiarise themselves with the University's policies and statutes, particularly the Assessment Statute, the Personal Courses of Study Statute, the Statute on Student Conduct and any statutes relating to the particular qualifications being studied; see the Victoria University Calendar or go to [www.victoria.ac.nz/home/about/policy/students.aspx](http://www.victoria.ac.nz/home/about/policy/students.aspx)

For information on the following topics, go to the Faculty's website [www.victoria.ac.nz/fca](http://www.victoria.ac.nz/fca) under Important Information for Students:

- Academic Grievances
- Student and Staff Conduct
- Meeting the Needs of Students with Impairments
- Student Support

## **Academic Integrity and Plagiarism**

Academic integrity is about honesty – put simply it means *no cheating*. All members of the University community are responsible for upholding academic integrity, which means staff and students are expected to behave honestly, fairly and with respect for others at all times.

Plagiarism is a form of cheating which undermines academic integrity. The University defines plagiarism as follows:

*The presentation of the work of another person or other persons as if it were one's own, whether intended or not. This includes published or unpublished work, material on the Internet and the work of other students or staff.*

It is still plagiarism even if you re-structure the material or present it in your own style or words.

*Note: It is however, perfectly acceptable to include the work of others as long as that is acknowledged by appropriate referencing.*

Plagiarism is prohibited at Victoria and is not worth the risk. Any enrolled student found guilty of plagiarism will be subject to disciplinary procedures under the Statute on Student Conduct and may be penalized severely. Consequences of being found guilty of plagiarism can include:

- an oral or written warning
- cancellation of your mark for an assessment or a fail grade for the course
- suspension from the course or the University.

Find out more about plagiarism, and how to avoid it, on the University's website:

[www.victoria.ac.nz/home/studying/plagiarism.html](http://www.victoria.ac.nz/home/studying/plagiarism.html)

### **Manaaki Pihipihinga Programme**

Manaaki Pihipihinga is an academic mentoring programme for undergraduate Māori and Pacific students in the Faculties of Commerce and Administration, and Humanities and Social Sciences. Sessions are held at the Kelburn and Pipitea Campuses in the Mentoring Rooms, 14 Kelburn Parade (back courtyard), Room 109D, and Room 210, Level 2, Railway West Wing. There is also a Pacific Support Coordinator who assists Pacific students by linking them to the services and support they need while studying at Victoria. Another feature of the programme is a support network for Postgraduate students with links to Postgraduate workshops and activities around Campus.

For further information, or to register with the programme, email [manaaki-pihipihinga-programme@vuw.ac.nz](mailto:manaaki-pihipihinga-programme@vuw.ac.nz) or phone (04) 463 6015. To contact the Pacific Support Coordinator, email [pacific-support-coord@vuw.ac.nz](mailto:pacific-support-coord@vuw.ac.nz) or phone (04) 463 5842.

## TUTORIAL SIGN-UP

### Detailed Tutorial Signup Instructions

1. Go to the signup website at: <https://signups.vuw.ac.nz>
2. Enter your SCS username and password to login the system.
3. The “Signup Home” page opens. It displays all courses you are enrolled for and that use the S-Cubed Tutorial & Workshop Signup system. Click on the course you wish to sign up for.
4. The selected course page opens. It will show the course contact and brief details of the signup instructions. A “key” is provided at the bottom that explains all buttons and what they do.
5. The schedule of tutorials includes the day/time, location, maximum group size, and spaces left in the tutorial sessions.
6. If there are spaces left in a particular session, you will see the “ENROL” button next to it. You can click this button to enrol yourself into that tutorial session.
7. If there are NO more spaces left in a particular session, you will see the “JOIN WAITLIST” button, if available. You can click this button to join the waitlist for that tutorial session. Please note that you will be removed from any other waitlist you may have joined earlier. If somebody withdraws from this session, you will automatically be moved up the waitlist or enrolled into the session. In this case you are enrolled in the session; an email will be sent to you if you are enrolled into the session from a waitlist.
8. You can only “JOIN WAITLIST” if you have already enrolled in one of the other available sessions. In other words, “ENROL” in one session and then you can choose to join the waitlist for another preferred session.
9. You can choose to “WITHDRAW” from a session you have already enrolled for. You can also choose to “CANCEL WAITLIST” to remove yourself from a particular waitlist.
10. A “FULL” button indicates all seats and waitlist are full for that tutorial session. You must choose another session.
11. More details on the various buttons are available in the “Key” section at the bottom of the signup page.
12. You should “ENROL” in only ONE tutorial session and may “JOIN WAITLIST” for only ONE other tutorial session.
13. You can login and signup (or change your signup) anytime before the **closing date of the tutorial signup. You will NOT be able to sign up or change your choice after the tutorial signups have closed.**
14. You can view/confirm details of the sessions you are enrolled and waitlisted for, such as day/time and location by clicking on “My Signups” on the left hand menu.
15. Click on “Support” on the left hand menu if you are having problems.

This online signup system is available around the clock over the internet. Any requests after this date will need to be manually handled by the course administrator. You will need to submit a written application stating the reason why you were not able to sign up on time using the online system, along with other relevant documentation such as medical certificate etc.

Finally, **you must always attend the tutorial sessions that you have signed up for.** If you attend a different session, your attendance may not be recorded.



## Course Programme

Lecturer	Week	Lecture	Topic	Due Dates	Tutorial
Alan Cameron	1	25 February 26 February 28 March	<u>Course Administration &amp; Introduction</u> <u>Introduction:</u> The Institutions of Contract and Contract Law <u>Introduction:</u> Contractual Concepts and Theory		
Alan Cameron	2	3 March 4 March 6 March	<u>Formation of the Contract:</u> Agreement <u>Formation of the Contract:</u> Consideration <u>Formation of the Contract:</u> Intention to create legal relations	Tutorial 1 Handout	
Alan Cameron	3	10 March, 11 March 13 March	<u>Content of the Contract:</u> Terms - parole evidence rule – types <u>Content of the Contract:</u> Terms – implied <u>Content of the Contract:</u> Limiting/excluding terms	Tutorial 2 Handout Assignment Topic	Tutorial One: Formation
Alan Cameron	4	17 March, 18 March 20 March	<u>Content of Contract:</u> Limiting/excluding terms <u>Content of Contract:</u> Interpretation <u>Content of Contract:</u> Interpretation	Tutorial 3 Handout	Tutorial Two: Content of Contract
Alan Cameron	5	24 March 25 March 27 March,	<b><i>Easter Holiday</i></b> <b><i>Easter Holiday</i></b> <u>Incapacity Minors Contract Act</u>	Tutorial 4 Handout	<u>No Tutorial</u>
Alan Cameron	6	31 March 1 April 3 April	<u>Unenforceable Contracts:</u> Contracts Enforcement Act 1956 <u>Unenforceable Contracts:</u> Contracts Enforcement Act 1956 <u>Factors Vitiating Contract:</u> Contracts against public policy		Tutorial Three: Interpretation
Palitha de Silva	7	7 April 8 April 10 April	<b><u>TEST</u></b> <u>Factors Vitiating Contract:</u> Unfair dealing: duress, undue influence <u>Factors Vitiating Contract:</u> Unfair dealing: unconscionable bargain		<u>No Tutorial</u>

		14 – 25 April	MID-TRIMESTER BREAK		
Palitha De Silva	8	28 April 29 April 1 May	<u>Factors Vitiating Contract</u> : Mistake <u>Factors Vitiating Contract</u> : Mistake <u>Factors Vitiating Contract</u> : Mistake		Tutorial Four: Contracts Enforcement Act
Palitha De Silva	9	5 May 6 May 8 May	<u>Factors Vitiating Contract</u> : Misrepresentation <u>Factors Vitiating Contract</u> : Misrepresentation <u>Factors Vitiating Contract</u> : Misrepresentation	<u>Thurs 8 May 4:30 pm</u> Assignment hand-in	Tutorial Five: Unfair contracts
Palitha De Silva	10	12 May 13 May 15 May	<u>Termination of Contract</u> : By agreement, by frustration <u>Termination of Contract</u> : By frustration <u>Termination of Contract</u> : By frustration		Tutorial Six: Mistake & Misrepresentation
Palitha De Silva	11	19 May 20 May. 22 May	<u>Termination of Contract</u> : By cancellation <u>Termination of Contract</u> : By cancellation <u>Termination of Contract</u> : By cancellation		Tutorial Seven: Termination
Palitha De Silva Alan Cameron	12	26 May 27 May 29 May	<u>Contractual Remedies</u> : Damages; equitable relief <u>Contractual Remedies</u> : Damages; equitable relief <u>Revision. Final Exam preparation, Wind-up</u>		Tutorial Eight: Cancellation