

## Unit One – Contract Law

### Module One – Introduction to Contracts



30 Minutes

1. What is a contract?
2. What law governs contracts?
  - a) Statute law
  - b) Common law
3. Security of payment legislation
4. The importance of reading the contract

### Module Two – The Six Elements of Contract



One Hour and  
Ten Minutes

1. The six elements of contract
  - a) Offer and acceptance
  - b) Intent to create a legally binding relationship
  - c) Consideration
  - d) Legality of object
  - e) Consent
  - f) Legal capacity
2. The legal requirement of certainty
3. Competing contracts and the tender process

### Module Three – Privity of Contract



18 Minutes

1. Privity of Contract
2. Back to back agreements
3. Australian standard contracts
  - a) Construct Only - AS 2124 –1992, AS 4000 - 1997
  - b) Design & Construct – AS 4300 –1995, AS 4902 - 2000
  - c) AS 4906 – 2002 - Minor works conditions

### Module Four – Breach of Contract



34 Minutes

1. Damages for breach of contract
  - a) Entitlement to damages
  - b) Quantum claimable
2. Liquidated damages for late completion
  - a) Entitlement to liquidated damages
  - b) Calculation of liquidated damages
  - c) Genuine pre-estimate of loss vs penalty
3. Comparison of damages vs liquidated damages

## Case Study One

### Instructions



2 Minutes

Laura will explain the case study.

### Independent Work



25 - 40 Minutes

You can take as long as you like to work through the hypothetical problem. As a general guide, most of our students take around 30 minutes to complete the exercise.

### Answers



16 Minutes

Laura will explain the answer to the case study.

## Unit Two – Parties to the Contract

### Module One – The Role of the Superintendent



26 Minutes

1. Legal status of a superintendent
2. The role of a superintendent
3. Appointing a superintendent
4. The powers of a superintendent
5. Challenging the decisions of a superintendent

### Module Two – Obligations of Principals and Contractors



16 Minutes

1. Common law obligations of a principal
2. Common law obligations of a contractor

## Unit Three – Nature of the Contract

### Module One – Scope Classifications



20 Minutes

1. Construct only contracts
2. Design and construct contracts
3. Buildability issues
4. Choosing the correct contract for your project

### Module Two – Financial Classifications



45 Minutes

1. Lump Sum Contracts
  - a) Provisional Sums
  - b) Schedule of prices
2. Cost Plus Contracts
3. Schedule of Rates Contracts
  - a) Bill of quantities
  - b) Limits of accuracy
  - c) Front end loading

### Module Three – Additional Customisations



20 Minutes

1. Fixed price contracts vs rise and fall contracts
2. Guaranteed maximum price clauses
3. Alliance contracting

## Case Study Two

### Instructions



3 Minutes

Laura will explain the case study.

### Independent Work



25 - 40 Minutes

You can take as long as you like to work through the hypothetical problem. As a general guide, most of our students take around 30 minutes to complete the exercise.

### Answers



18 Minutes

Laura will explain the answer to the case study.

## Unit Four – Contractual Documentation

### Module One – The Anatomy of a Contract



15 Minutes

1. Documents that form the contract
  - a) Instrument of agreement
  - b) Conditions
  - c) Scope of work
  - d) Specification
  - e) Drawings
  - f) Policies
2. General conditions vs special conditions

### Module Two – How to Read a Contract



35 Minutes

1. Interpretation of contracts
  - a) Understanding defined terms
  - b) Using the annexures
  - c) Generating checklists
2. Resolving ambiguity in a contract
  - a) The doctrine of contra preferentum
  - b) Order of precedence
  - c) Ambiguity clauses

### Module Three – Drafting Contract Documents



22 Minutes

1. Drafting the legal documents
  - a) Directive language vs permissive language
  - b) Exhaustive clauses
  - c) The power of grammar (examples of what not to do)
  - d) Legalese 101
  - e) Cross referencing
2. Drafting the technical documents
  - a) Technical specifications
  - b) Performance specifications

### Module Four – Negotiating an Agreement



26 Minutes

1. Qualification registers
  - a) Risk allocation
  - b) Preconditions to payment
2. Indemnity clauses
3. Creating back to back subcontracts

## Case Study Three

### Instructions



6 Minutes

Laura will explain the case study.

### Independent Work



35 - 50 Minutes

You can take as long as you like to work through the hypothetical problem. As a general guide, most of our students take around 40 minutes to complete the exercise.

### Answers



14 Minutes

Laura will explain the answer to the case study.

## Unit Five – Variations

### Module One – Introduction to Variations



30 Minutes

1. Letters of intent vs letters of acceptance
2. Varying the work vs varying the conditions
3. What constitutes a variation
  - a) AS2124 definition
  - b) AS4000 definition
  - c) Bespoke contract definitions and “included matter” clauses
  - d) Minor items

### Module Two – Variation Instructions



30 Minutes

1. Procedure for ordering variations
  - a) Under AS2124/ AS 4000
  - b) Under bespoke contracts
  - c) Entitlement to payment
2. Variations for the convenience of the contractor
  - a) Entitlement to payment
  - b) Value engineering
3. Limits to the variation power
  - a) Under common law
  - b) Under AS2124/ AS 4000
  - c) Under bespoke contracts

### Module Three – Valuation of Variations



12 Minutes

1. Valuation methodology
  - a) Under AS2124/ AS 4000
  - b) Under bespoke contracts
2. The importance of records



## Unit Six – Extensions of Time and Delay Costs

### Module One – The Timing Mechanism



15 Minutes

1. The advantages of an extension of time regime
2. The obligation to complete in time
  - a) Under common law
  - b) Under contract
3. Consequences of late completion
  - a) Common law damages
  - b) Liquidated damages
4. How extension of time affects liability for liquidated damages
5. Separable portions

### Module Two – Claiming Extensions of Time



30 Minutes


1. Qualifying causes of delay
  - a) Under AS2124/ AS 4000
  - b) Under bespoke contracts
2. Notices of delay
3. Claims for extensions of time
  - a) For concluded delays
  - b) For ongoing delays
  - c) The obligation to refresh notices
4. Critical path and float
5. Mitigation of delay
6. Concurrency
  - a) Under AS2124
  - b) Under AS4000 and bespoke contracts

### Module Three – Assessing Extension of Time Claims



20 Minutes

1. Where an EOT claim is approved
2. Where an EOT claim is ignored
3. Where an EOT claim is rejected
4. The prevention principle
5. Acceleration
  - a) Principal directed acceleration
  - b) Contractor initiated acceleration

	c) Constructive acceleration
<p data-bbox="135 224 534 302"><b>Module Four – Delay and Disruption Costs</b></p>  <p data-bbox="255 443 414 481"><b>15 Minutes</b></p>	<ol data-bbox="630 201 1244 593" style="list-style-type: none"><li>1. Entitlement to delay and disruption costs<ol data-bbox="678 257 1125 358" style="list-style-type: none"><li>a) Under AS2124/ AS 4000</li><li>b) Under bespoke contracts</li></ol></li><li>2. Mitigation of delay costs</li><li>3. Valuation of delay costs<ol data-bbox="678 504 1061 593" style="list-style-type: none"><li>a) Actual costs incurred</li><li>b) Daily rate</li></ol></li></ol>