

HANDOUT

CATEGORIES OF CONTRACTS

Not all contracts need to be in writing. In fact, it would be impractical for some contracts to be in writing. For example, getting a haircut or taking a taxi does not usually involve a written contract. There are three categories of contracts:

Implied Contracts

An implied contract is made when little or no discussion takes place regarding the content of the contract. The content is implied by the actions of the parties. Depositing a quarter into a video game machine is an implied contract. While no discussion between you and the arcade owner has taken place, it is apparent that you will get to play a round of the video game for that quarter. Getting onto a bus and depositing the fare is also an example of an implied contract. While no discussion has taken place, it is apparent that the bus will provide you with transportation service.

Oral Contracts

An oral contract is created when two parties engage in a discussion of terms and then come to a verbal agreement. Oral contracts are legally enforceable. Just as much as a written contract, you should be sure to understand all of the terms that are included in the agreement. If you have to take the other party to court, you still will have to prove the terms of the contract. This may be more difficult if the agreement is not in writing.

Written Contracts

Certain contracts, such as landlord and tenant agreements, and sale agreements of over 50 dollars need to be in writing. In addition to these, the *Statute of Frauds* requires five other types of contract to be in writing.

Statute of Frauds

The *Statute of Frauds* was enacted in 1677 by the English Parliament in response to an overwhelming number of false claims of fraud in contract. It required certain types of contracts to be in writing to be enforceable under law. These included:

1. Contracts that are not to be or cannot be completed in one year.
2. Contracts for the sale of land.
3. Contracts in promotion of marriage.
4. Contracts wherein an executor or administrator of an estate agrees to be personally liable for debts of estate.
5. Contracts wherein a person agrees to be responsible for the debt of another person.

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While now antiquated, the *Statute of Frauds* is still in effect in all provinces in Canada with the exception of Manitoba and Quebec. However, most provinces, including Saskatchewan, have various other laws such as *The Consumer Protection Act* and *The Land Titles Act* that go even further than the requirements of the *Statute of Frauds* for requiring contracts in writing.

QUESTIONS

Does this contract need to be in writing?

For each of the following scenarios, decide whether or not the contract in question needs to be in writing to be enforceable.

1. Tara rents a video game machine for the weekend.
Oral Written
2. In April, Scott is offered a job for the summer mowing lawns.
Oral Written
3. Uncle Bernie offers \$50,000 to anyone willing to marry his son Maurice.
Oral Written
4. Virginia sells a barren plot of land to a neighbour.
Oral Written
5. Colin rents an airplane for a two-year term.
Oral Written
6. Bertha is buying a hot tub to be installed at her ski chalet.
Oral Written
7. Kenny agrees to co-sign his sister's car loan.
Oral Written
8. Hazel sells an old swag lamp from her basement for \$40.
Oral Written
9. Marlin agrees to buy all his bread for the next two years from a neighbour.
Oral Written
10. Joy joins a DVD club and agrees to buy five movies over the next three years.
Oral Written

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Problems

1. You receive a phone call on February 1st from Acme Corporation in Winnipeg. They guarantee you a job from May 1st of this year until April 30th the following year. You verbally accept that day, do not sign any agreement, and start work on May 1st as agreed. On December 30th you are fired. Can you demand that the contract be fulfilled and keep your job until April 30th?

2. On March 1st a husband and wife separate. The husband tells his wife that he will give her \$1500 a month for as long as he lives if she agrees not to sue him. Does this contract have to be in writing?

