





# Introduction to the English Legal System

## Contract Law

Christopher Bisping





Introduction to the English Legal System





## Overview

- Formation of Contracts
  - Offer/acceptance
  - Certainty
  - Consideration
  - Capacity
  - Formalities
  - Intention to Create Legal Relations
- Contents of Contracts
  - Express and implied terms
  - Conditions, warranties and innominate terms
  - Unfair terms
- Vitiating Factors
  - Misrepresentation
  - Mistake
  - Illegality
  - Duress and undue influence
- Third Parties
- Discharge and Remedies
  - Discharge by performance, frustration, breach, agreement
  - Remedies: damages, specific performance, other remedies

 <p data-bbox="323 763 489 837">Introduction to the English Legal System</p> 	<h2 data-bbox="730 344 1007 398">Formation</h2> <h3 data-bbox="619 407 1118 452">Offer and Acceptance I</h3> <ul data-bbox="518 481 1235 920" style="list-style-type: none"> <li>• Offeror (makes offer) offeree (receives offer)</li> <li>• Offers to public at large, see. <i>Carlill v Carbolic Smoke Ball Co Ltd</i> (1893)</li> <li>• Invitations to treat, such as advertisements</li> <li>• <i>Quaere</i> for timetables and tickets</li> </ul>
--	--

 <p data-bbox="323 1664 489 1738">Introduction to the English Legal System</p> 	<h2 data-bbox="730 1245 1007 1299">Formation</h2> <h3 data-bbox="611 1308 1126 1352">Offer and Acceptance II</h3> <ul data-bbox="518 1382 1235 1787" style="list-style-type: none"> <li>• Offer remains valid for reasonable length of time, unless rejected, counter offer, death or withdrawn <ul data-bbox="564 1599 1235 1787" style="list-style-type: none"> <li>– At any time before acceptance</li> <li>– Must be communicated</li> <li>– No part-performance in unilateral contracts</li> </ul> </li> </ul>
---	---

 <p data-bbox="323 763 489 837">Introduction to the English Legal System</p> 	<h2 data-bbox="732 344 1005 394">Formation</h2> <h3 data-bbox="603 405 1136 450">Offer and Acceptance III</h3> <ul data-bbox="518 488 1222 925" style="list-style-type: none"> <li>• Acceptance = unconditional agreement to all terms</li> <li>• may be inferred from conduct</li> <li>• Mere silence not sufficient</li> <li>• Battle of the forms</li> <li>• Must be communicated, unless waived by offer, conduct may be sufficient</li> </ul>
--	--

 <p data-bbox="323 1664 489 1738">Introduction to the English Legal System</p> 	<h2 data-bbox="732 1245 1005 1294">Formation</h2> <h3 data-bbox="603 1305 1136 1350">Offer and Acceptance IV</h3> <h4 data-bbox="518 1375 775 1408">The Postal Rule</h4> <ul data-bbox="518 1413 1270 1890" style="list-style-type: none"> <li>• Acceptance takes effect when posted (not only when received)</li> <li>• Applicable to other means of non-instantaneous communication? (telegram)</li> <li>• <i>Quaere</i> for fax, e-mail, text message</li> <li>• Use of post must be reasonable</li> <li>• Can be excluded in offer (“...must be received...”)</li> <li>• Not applicable if letter insufficiently or wrongly addressed</li> <li>• Effects:       <ul data-bbox="564 1771 1249 1890" style="list-style-type: none"> <li>– contract despite acceptance never delivered</li> <li>– revocation of offer not possible after acceptance was posted</li> <li>– acceptance cannot be revoked</li> </ul> </li> </ul>
---	--




Introduction to the English Legal System




## Formation

### Offer and Acceptance V

- Auction: bid is offer, fall of hammer is acceptance
- Tenders
- Rules applied very strictly for sale of land
  - Sale subject to contract
  - Exchange of contracts



Introduction to the English Legal System







## Formation

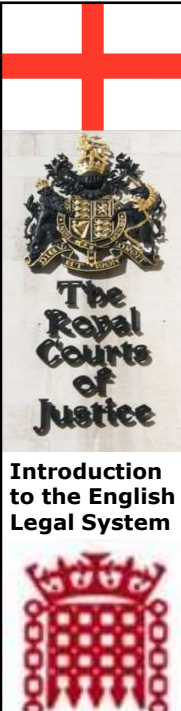
### Certainty



- Vague and incomplete agreements are not contracts
- Courts do not make contracts for the parties!
- Fluctuations may need to be provided for on basis of later clarification
- Terms implied by statute
- Officious bystander test



  <p data-bbox="322 763 491 840">Introduction to the English Legal System</p> 	<h2 data-bbox="746 344 1018 398">Formation</h2> <p data-bbox="549 409 1235 454">Intention to Create Legal Relations</p> <ul data-bbox="517 488 1193 808" style="list-style-type: none"> <li>• Objectively assessed whether parties intended to be bound</li> <li>• Social and domestic agreements: presumption against</li> <li>• Commercial agreements: presumption in favour</li> </ul>
--	---




  <p data-bbox="322 1664 491 1740">Introduction to the English Legal System</p> 	<h2 data-bbox="737 1245 1008 1357">Formation Capacity</h2> <ul data-bbox="517 1379 1267 1883" style="list-style-type: none"> <li>• Minors (below 18) are bound only by contracts for necessities <ul data-bbox="564 1451 1267 1659" style="list-style-type: none"> <li>– SoGA 1979 s 3(2): goods suitable to the condition in life of the minor ... and his actual requirements"</li> <li>– Are goods capable of being necessities in law?</li> <li>– Are they actually necessities in the present case?</li> </ul> </li> <li>• Other contract are voidable by the minor, i.e. bind other party only</li> <li>• Mental incapacity: contract valid unless <ul data-bbox="564 1787 1134 1883" style="list-style-type: none"> <li>– Person cannot understand nature of transaction and</li> <li>– Other party knows this</li> </ul> </li> </ul>
---	--

 <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p>	<h2 style="text-align: center;">Formation Formalities</h2> <ul style="list-style-type: none"> <li>• <u>Principle</u>: no form required</li> <li>• <u>by deed</u>: formal document signed in front of witnesses <ul style="list-style-type: none"> <li>- Leases of more than 3 years (LPA 1925)</li> <li>- Where there is no consideration</li> </ul> </li> <li>• <u>In writing</u>: <ul style="list-style-type: none"> <li>- Transfer of shares in ltd.</li> <li>- Bills o exchange, cheques, prom. Notes</li> <li>- Consumer credit agreements (CCA 1974)</li> <li>- Sale of land (LPA 1989)</li> </ul> </li> <li>• <u>Evidenced in writing</u>: <ul style="list-style-type: none"> <li>- Contract may be oral</li> <li>- Written evidence required, Statute of Frauds 1677</li> </ul> </li> <li>• <u>Electronic Communications Act 2000</u> <ul style="list-style-type: none"> <li>- Incorporates EU E-Commerce directive</li> </ul> </li> </ul>
---	--

 <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p>	<h2 style="text-align: center;">Formation Consideration I</h2> <ul style="list-style-type: none"> <li>• Consideration: each party must give something in return for their gain</li> <li>• Contract not binding without (<i>i.e.</i> gratuitous promise)</li> <li>• Can be promise in return</li> <li>• <i>Quid pro quo</i></li> <li>• <i>Dunlop v Selfridge (1915)</i>:  plaintiff must show that he bought the defendant's promise by doing, giving or promising something in return for it</li> <li>• Reason for enforcement of promises, justice of the case (Prof. Atiyah)</li> </ul>
--	---

 <p data-bbox="347 584 466 741">The Royal Courts of Justice</p> <p data-bbox="323 763 489 837">Introduction to the English Legal System</p> 	<h2 data-bbox="703 349 1050 450">Formation Consideration II</h2> <ul data-bbox="520 488 1257 1016" style="list-style-type: none"> <li>• Consideration need not benefit promisee: detriment of promisor</li> <li>• Executory consideration: pro-mise to do something in future</li> <li>• Executed consideration: already performed at time of contracting</li> <li>• Consideration must not be past</li> <li>• Consideration must be sufficient, but need not be adequate</li> <li>• Consideration must be of economic value</li> </ul>
---	---

 <p data-bbox="347 1494 466 1650">The Royal Courts of Justice</p> <p data-bbox="323 1673 489 1747">Introduction to the English Legal System</p> 	<h2 data-bbox="683 1249 1050 1350">Formation Consideration III</h2> <p data-bbox="520 1388 1078 1424">Performance of an Existing duty</p> <ul data-bbox="520 1440 1230 1917" style="list-style-type: none"> <li>• Existing duty not consideration</li> <li>• Existing Public duty</li> <li>• Existing contractual duty <ul data-bbox="568 1574 1230 1917" style="list-style-type: none"> <li>– Classic position <ul data-bbox="616 1619 1107 1686" style="list-style-type: none"> <li>• <i>Stilk v Myrick</i> (1809) – no cons.</li> <li>• <i>Hartley v Ponsonby</i> (1857) – cons.</li> </ul> </li> <li>– Modern law <ul data-bbox="616 1731 1230 1865" style="list-style-type: none"> <li>• <i>Williams v Roffey</i> (1990) for goods and services - consideration</li> <li>• Pinnel's case (1602) for payment of debts – no consideration</li> </ul> </li> </ul> </li> <li>– Existing duty to third party - consideration</li> </ul>
--	---

  <p data-bbox="322 761 491 840">Introduction to the English Legal System</p> 	<h2 data-bbox="646 347 1082 459">Formation Promissory Estoppel</h2>  <ul data-bbox="518 526 1181 862" style="list-style-type: none"> <li>• Promissory Estoppel: developed in equity           <ul style="list-style-type: none"> <li>- <i>Hughes v Metropolitan Railway Co</i> (1877)</li> <li>- <i>Central London Property Trust v High Trees House Ltd</i> (1947)</li> <li>- Promise not to enforce a right</li> <li>- Promisee acted in reliance on the promise</li> <li>- Inequitable to enforce strict legal rights</li> <li>- Future rights not destroyed</li> <li>- A shield and not a sword</li> </ul> </li> </ul>
--	---

  <p data-bbox="322 1662 491 1740">Introduction to the English Legal System</p> 	<h2 data-bbox="657 1247 1072 1359">Contract Terms Express Terms</h2> <ul data-bbox="518 1388 1257 1702" style="list-style-type: none"> <li>• Representation: statement that Is not part of contract</li> <li>• Term: statement that is part of contract</li> <li>• Legal consequence: misrepresentation and breach of contract</li> </ul>
---	---





Introduction to the English Legal System




## Contract Terms


### Express Terms

#### Oral terms

- Importance of statement
- Special knowledge and skill
- Timing
- Strength of inducement
- Writing displaces oral statement



Introduction to the English Legal System









## Contract Terms




### Express Terms




#### Written terms

- incorporation by
  - signature
  - reasonable notice
  - Previous course of dealing
- Parol Evidence Rule
  - Extrinsic evidence not admissible
  - various exceptions: rectification, partially in writing, implied terms, custom, etc.

  <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p> 	<h2 style="text-align: center;">Contract Terms</h2> <h3 style="text-align: center;">Express Terms</h3> <h3>Interpretation</h3> <ul style="list-style-type: none"> <li>• Intention of the parties by objective approach</li> <li>• No extrinsic evidence</li> <li>• matrix of fact</li> </ul>
---	--

  <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p> 	<h2 style="text-align: center;">Contract Terms</h2> <h3 style="text-align: center;">Implied Terms</h3> <h3>Terms implied in fact</h3> <ul style="list-style-type: none"> <li>• <b>Officious bystander test</b>  <i>Shirlaw v Southern Foundries (1926)</i>: "...something so obvious that it goes without saying ... if while the parties were making their bargain, an officious bystander were to suggest some express provision ... they would testily supply suppress him with a common 'Oh, of course!'"</li> <li>• <b>Business efficacy test</b>        –To make contract work  <i>Reigate v Union Manufacturing Co (1918)</i>: "necessary in the business sense to give efficacy to the contract ... if at the time the contract was being negotiated someone had said to the parties: 'What will happen in such a case?' they would both have replied: 'Of course so and so will happen, we did not rouble to say that; it is too clear.'"     </li> <li>• Both tests subjective</li> </ul>
--	---

  <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p> 	<h2 style="text-align: center;">Contract Terms</h2> <h3 style="text-align: center;">Implied Terms</h3> <h3><b>Terms implied in law</b></h3> <ul style="list-style-type: none"> <li>• Terms dictated by law irrespective of parties' intention</li> <li>• Based on common law or statute e.g. Sale of Goods Act 1979, Unfair Contract Terms Act 1977 Consumer Rights Act 2015</li> </ul> <h3><b>Terms impl. by custom/usage</b></h3> <h3><b>Entire agreement clause</b></h3>
---	---

  <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p> 	<h2 style="text-align: center;">Contract Terms</h2> <h3 style="text-align: center;">Importance of Terms</h3> <ul style="list-style-type: none"> <li>• Conditions <ul style="list-style-type: none"> <li>- Very important terms</li> <li>- Breach is repudiation of contract, i.e. no performance required</li> <li>- Damages</li> </ul> </li> <li>• Warranties <ul style="list-style-type: none"> <li>- Less important terms</li> <li>- damages</li> </ul> </li> <li>• Innominate terms <ul style="list-style-type: none"> <li>- Breach can have more or less important consequences</li> </ul> </li> </ul>
--	---




**The Royal Courts of Justice**

**Introduction to the English Legal System**



## Contract Terms

### Unfair Contract Terms

- Exemption clauses
  - Exclusion clauses
  - Limitation clauses
- Common Law control
- Statutory Control




**The Royal Courts of Justice**

**Introduction to the English Legal System**



## Contract Terms

### Unfair Contract Terms

#### **Common Law controls**

- Incorporation
  - By signature
  - By reasonable notice
    - Time of notice
    - Form of notice
    - Effect of the clause
  - By previous course of dealing
- Interpretation
  - Contra proferentem




**The Royal Courts of Justice**

**Introduction to the English Legal System**



## Contract Terms

### Unfair Contract Terms

#### Statutory controls

- Unfair Contract Terms Act 1977
  - Dealing as consumer, s 12
  - Limitation clauses only
    - Negligence, s 2
    - Non performance, s 3
    - Indemnity clauses, s 4
    - Guarantees of consumer goods, s 5
    - Misrepresentation, s 8
  - Reasonableness




**The Royal Courts of Justice**

**Introduction to the English Legal System**






## Contract Terms


### Unfair Contract Terms

#### Statutory controls

- Unfair Terms in Consumer Contracts Regulations 1999
  - Sellers/suppliers – consumers  
(any natural person ... acting for purposes outside his trade, business or profession")
  - Not individually negotiated, r 5(3)
  - Fairness (not for core terms or adequacy of price/remuneration, if expressed in plain, intelligible language)

  <p data-bbox="323 763 489 837">Introduction to the English Legal System</p> 	<h2 style="text-align: center;">Contract Terms</h2> <h3 style="text-align: center;">Unfair Contract Terms</h3> <h3>Statutory controls</h3> <ul style="list-style-type: none"> <li>• Consumer Rights Act 2015, pt II</li> <li>• Exercise: Spot the difference! <ul style="list-style-type: none"> <li>- CRA 2015 s2(3) "Consumer" means an individual acting for purposes that are wholly or mainly outside that individual's trade, business, craft or profession.</li> <li>- BGB §13: Verbraucher ist jede natürliche Person, die ein Rechtsgeschäft zu Zwecken abschließt, die überwiegend weder ihrer gewerblichen noch ihrer selbständigen beruflichen Tätigkeit zugerechnet werden können.</li> </ul> </li> </ul>
--	--

  <p data-bbox="323 1664 489 1738">Introduction to the English Legal System</p> 	<h2 style="text-align: center;">Vitiating Factors</h2> <h3 style="text-align: center;">Misrepresentation</h3> <ul style="list-style-type: none"> <li>• Untrue statement of fact <ul style="list-style-type: none"> <li>- <i>Caveat emptor</i> (buyer beware!), except: <ul style="list-style-type: none"> <li>- Utmost good faith (<i>uberrimae fidei</i>)</li> <li>- Subsequent falsity</li> <li>- Partial revelation</li> <li>- Fiduciary relationship</li> </ul> </li> </ul> </li> <li>• Inducement</li> </ul>
---	---


 <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p>	<h2 style="text-align: center;">Vitiating Factors Misrepresentation</h2> <ul style="list-style-type: none"> <li>• Types: <ul style="list-style-type: none"> <li>– Fraudulent misrep. (tort of deceit)</li> <li>– Negligent misrepresentation</li> <li>– Innocent misrepresentation</li> </ul> </li> <li>• Remedies <ul style="list-style-type: none"> <li>– Rescission: contract voidable</li> <li>– Indemnity payment</li> <li>– Damages (tort measure, remoteness)</li> </ul> </li> </ul>
---	---

 <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p>	<h2 style="text-align: center;">Vitiating Factors Mistake</h2> <ul style="list-style-type: none"> <li>• Objective principle</li> <li>• Mistake must precede contract</li> <li>• Mistake must induce contract</li> <li>• Mistake of fact or law</li> <li>• Types: <ul style="list-style-type: none"> <li>– Common (identical/shared/mutual) <ul style="list-style-type: none"> <li>• Contract void if mistake fundamental</li> </ul> </li> <li>– Cross-purpose (non-identical) mistake (negating consent)</li> </ul> </li> </ul>
--	---

 <p data-bbox="323 763 489 837">Introduction to the English Legal System</p> 	<h2 data-bbox="651 344 1088 450">Vitiating Factors Illegality</h2> <ul data-bbox="518 488 1260 974" style="list-style-type: none"> <li>• Illegal at time of formation           <ul style="list-style-type: none"> <li>– Effect: no contract</li> </ul> </li> <li>• Illegal mode of performance           <ul style="list-style-type: none"> <li>– No contract if both knew, otherwise innocent party can enforce</li> </ul> </li> <li>• Violation of legal rules           <ul style="list-style-type: none"> <li>– Restraint of trade</li> <li>– Breach of legislation</li> </ul> </li> <li>• Breach of public policy</li> </ul>
--	--

 <p data-bbox="323 1664 489 1738">Introduction to the English Legal System</p> 	<h2 data-bbox="651 1245 1088 1350">Vitiating Factors Duress</h2> <ul data-bbox="518 1388 1093 1675" style="list-style-type: none"> <li>• Pressure on party</li> <li>• Pressure illegitimate</li> <li>• Inducement</li> <li>• No real choice</li> <li>• Innocent party protested</li> </ul>
---	--





## Vitiating Factors Undue Influence

- Type 1: Actual UI - proven that contract was result of UI
- Type 2: Presumed
  - **Type 2A:** Pre existing relationship of trust and confidence
    - Parent/child
    - Guardian/ward
    - Solicitor/client
    - religious adviser/disciple
    - trustee/beneficiary
    - doctor/patient
  - **Type 2B:** proven relationship of trust
- Contract manifestly disadvantageous to part who places trust in the other
- Problem: third party involvement






## Third Parties


- Privity of contract: only parties to a contract have rights and duties under it
- Contracts (Rights of Third Parties) Act 1999
  - Explicit contractual right for third party, s 1(1)(a)
  - Purported benefit to third party, s 1(1)(b)
  - Changes require consent of third party, s 2
  - Promisor has same defences against third party as against promisee, incl. Set-off

```

graph TD
    Promisor -- contract --> Promisee
    ThirdParty[Third party] -- right --> Promisor
  
```

  <p data-bbox="322 761 491 840">Introduction to the English Legal System</p> 	<h2 data-bbox="721 369 1066 421">Third Parties</h2> <ul data-bbox="518 481 1267 996" style="list-style-type: none"> <li>• Exceptions under statutes (for insurance)</li> <li>• Common Law exceptions <ul style="list-style-type: none"> <li>- Agency (even for undisclosed principals)</li> <li>- Assignment (incl. negotiability)</li> <li>- Damages on behalf of others</li> <li>- Collateral contracts</li> </ul> </li> <li>• Does privity rule make sense? <ul style="list-style-type: none"> <li>- <u>Pro</u>: free will, lack of reciprocal rights, no restriction on contracting parties' rights, no enforceability for gratuitous promises, opens the floodgates</li> <li>- <u>Contra</u>: extended litigation, irrational, against intention of parties, unjust enrichment, justifiable reliance, international</li> </ul> </li> </ul>
--	---

  <p data-bbox="322 1662 491 1740">Introduction to the English Legal System</p> 	<h2 data-bbox="603 1247 1189 1350">Discharge of Contract Overview</h2> <ul data-bbox="518 1388 826 1612" style="list-style-type: none"> <li>• Performance</li> <li>• Agreement</li> <li>• Breach</li> <li>• Frustration</li> </ul>
---	--

 <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p>	<h2 style="text-align: center;">Discharge of Contract Performance</h2> <ul style="list-style-type: none"> <li>• Entire performance rule:           <ul style="list-style-type: none"> <li>– Exact match of terms of contract</li> <li>– Substantial performance</li> <li>– Voluntary acceptance of part perf.</li> <li>– Prevention of completion by other party</li> <li>– Breach of term relating to time</li> </ul> </li> <li>• Vicarious performance</li> </ul>
---	---

 <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p>	<h2 style="text-align: center;">Discharge of Contract Frustration</h2> <ul style="list-style-type: none"> <li>• Event making performance           <ul style="list-style-type: none"> <li>– impossible</li> <li>– illegal</li> <li>– Radically different from agreement, frustration of purpose</li> </ul> </li> <li>• Not applicable           <ul style="list-style-type: none"> <li>– Provided for in contract</li> <li>– Foreseen or foreseeable events</li> <li>– Fault of one party (self-induced)</li> <li>– Contract only made more onerous</li> </ul> </li> </ul>
--	--




Introduction to the English Legal System




## Discharge of Contract Breach of Contract

- Actual breach
- Anticipatory breach
- Defence: lawful excuse
- Effect:
  - Damages
  - May be discharged up
    - Repudiation
    - Breach of condition
    - Serious breach of innominate term
    - ▶ Choice of innocent party









Introduction to the English Legal System




## Remedies

- Common Law remedies
  - Damages
  - Action for agreed sum
- Equitable remedies
  - Specific performance
  - Injunction
- Remedies agreed by parties
  - Liquidated damages
  - Penalty clause

  <p data-bbox="322 763 491 840">Introduction to the English Legal System</p> 	<h2 style="text-align: center;">Remedies Damages</h2> <ul style="list-style-type: none"> <li>• Compensation for pecuniary loss</li> <li>• Non-pecuniary loss only if             <ul style="list-style-type: none"> <li>– Contract where whole purpose is pleasure, relaxation and peace of mind</li> <li>– Contract where major object is pleasure, relaxation and peace of mind</li> <li>– Mental suffering caused by physical inconvenience</li> </ul> </li> <li>• Causation (but for-test)</li> <li>• Remoteness</li> <li>• Mitigation</li> </ul>
--	---

  <p data-bbox="322 1664 491 1740">Introduction to the English Legal System</p> 	<h2 style="text-align: center;">Remedies Damages</h2> <ul style="list-style-type: none"> <li>• Calculating loss             <ul style="list-style-type: none"> <li>– Expectation loss</li> <li>– Reliance Loss</li> </ul> </li> <li>• Claimant's choice, except             <ul style="list-style-type: none"> <li>– Bad bargain rule</li> <li>– Expectation loss too speculative</li> </ul> </li> <li>• Quantification             <ul style="list-style-type: none"> <li>– Market price rule</li> <li>– Cost of cure</li> <li>– Loss of opportunity</li> </ul> </li> </ul> <p>Action for agreed sum (= price)</p>
---	---

  <b>The Royal Courts of Justice</b> <b>Introduction to the English Legal System</b> 	<h2 style="text-align: center;">Remedies</h2> <h3 style="text-align: center;">Specific Performance</h3> <ul style="list-style-type: none"><li>• Discretionary if common law remedy (damages) inadequate</li><li>• Court order to perform contract</li><li>• No hardship to defendant</li><li>• Not if contract obtained unfairly</li><li>• Unsuitable contracts</li></ul> <h3 style="text-align: center;">Injunction</h3>
---	---

  <b>The Royal Courts of Justice</b> <b>Introduction to the English Legal System</b> 	<h2 style="text-align: center;">Extinction</h2> <ul style="list-style-type: none"><li>• Time bar: 6 years after cause of action accrued (deed: 12 years)</li></ul> <p style="text-align: center;">End of Contract section.</p>
--	--

  <p data-bbox="322 761 491 840">Introduction to the English Legal System</p> 	<h2 data-bbox="742 347 997 392">Remedies</h2> <h3 data-bbox="678 414 1061 459">Agreed by Parties</h3> <ul data-bbox="518 481 1236 907" style="list-style-type: none"><li>• Liquidated damages: based on actual loss - valid</li><li>• Penalty clause: not based on actual loss - invalid</li><li>• Law amended in <i>Beavis v Parking Eye</i> (2015) - other reasonable interests can justify amount stipulated</li></ul> <p data-bbox="790 963 997 1008">Extinction</p>
---	--