

## Capacity

LO!: Understand LO1: Understand the essential elements of a valid contract in a business context.

AC: 1.1

Discuss the impact of difficult of different types of contract.



In order to have a binding contract, the parties to it must have the legal capacity to enter into a such a contract.

Capacity will be examined under the following heads:

- i. Minors
- ii. Corporations
- iii. Persons of unsound mind or otherwise impaired

## Contracts with Minors-

The law classifies these contracts into three main categories:

- i. Valid
- ii. Void
- iii. Voidable

Valid contracts- A minor can enter into a contract for 'necessaries' defined by the common law as things 'suitable to the minor's station in life'. He must pay a reasonable price for these items.

The law will protect him against any onerous terms.

He/she is likewise legally obligated under a contract of employment, apprenticeship or any such kind of contract. *Chaplin v Leslie Frewin*

*De Francesco v Barnum* 1890 is authority for the proposition that the contract seen as a whole must be to his/her benefit.

Voidable contracts- these may involve transactions of a long-term nature such as the purchase, sale or lease of land etc. Such contracts are legally binding on him/her unless the contract is repudiated whilst a minor or very shortly after reaching the age of majority.

Other contracts- Contracts for loans and goods that are not necessities are not binding on him/her unless he/she ratifies them on reaching 18 years old.

Registered companies- their memorandum of association sets out clearly the object of the company. The company is empowered to carry out contracts which are in keeping with its stated objects.

Persons of unsound mind -

i. Contracts such persons may have entered into are voidable unless he can show the other party knew of his mental impairment .

ii. Such persons are bound to pay a reasonable price for necessaries

iii. Under the Mental Health Act, a committee can enter into valid contracts on behalf of such a person.



It is to be noted that the law treats the capacity of persons impaired by drugs and alcohol are treated in a similar manner to what was outlined in points I and ii above.

Principles of the English Common Law.