

Basic Business Law

Lesson 1: The nature of Commercial Law

Since ignorance of the law is no excuse, a businessperson may still be liable for breaking the law even if he or she was unaware of its content. A good starting point is to learn to understand the legal language used in these laws and to develop an appreciation for the way in which they come into being, how they operate and how to avoid the courts altogether through alternative dispute resolution.

1 Common legal concepts

Juristic act

A juristic act is any wilful act that has legal consequences.

- A unilateral juristic act is performed by a single legal person e.g. the making of a will.
- A multilateral juristic act is performed by two or more parties e.g. the making of a contract.

Legal person

A legal person can be a human being (a natural person) or an entity without physical existence (a juristic person). Juristic persons include business entities like companies, close corporations and banks, special service entities like universities, the SABC and government commissions and voluntary associations like churches, clubs, and political parties.

If a natural person is the only director of a company or the only member of a close corporation the natural person and the company or close corporations will be separate legal persons.

Legal capacity

To have legal capacity, means that a legal person ...

- Has rights and duties.
- Can perform juristic acts and
- Sue and be sued as a party to a lawsuit.

Sometimes the legal capacity of a legal person can be lacking or limited and will hinder it in the making of a contract.

Contract

A contract is an agreement between two or more legal persons which creates one or more obligations between the parties to the agreement. The basic features of a contract are ...

- There must be an agreement or agreements.
- The agreements must create obligations.
- There must be at least two parties to a contract.
- Only the parties to the contract are bound by it.

If an agreement meets all the necessary requirements it is known as a valid contract. An agreement that does not give rise to obligations because it doesn't satisfy the requirements is known as a void contract. A voidable contract is binding on both parties, but is flawed in that one of the parties has the option to set it aside.

For a contract to be valid it must adhere to the following requirements:

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