

Law in 101 words

Snippets from *The Reduced Law Dictionary*, by **Roderick Ramage**



Contracts

A contract is a civil law relationship between two or more persons creating enforceable obligations, and can be made only if each of the following is present:

- offer and acceptance;
- consideration; and
- intention to create legal relations.

Ordinary contracts may be made by conduct, orally or in writing, and a written contract may be either simply written or a deed. A deed, a speciality contract, is necessary for conveyances of land and a few other rare transactions, but may be used for any other contracts, in which case no consideration is necessary and the limitation period is 12 not six years.

Duomatic

In *re Duomatic Ltd* (1969) Buckley J said: "I proceed on the basis that where it can be shown that all shareholders who have a right to attend and vote at a general meeting of the company assent to some matter which a general meeting of the company could carry into effect, that assent is as binding as a resolution in general meeting would be." The principle has its origins in *Salomon v Salomon* (1897). The assent, however, of just one of several beneficial owners of a share held on trust is not sufficient for *Duomatic* purposes: *Rolfe v Rolfe* (2010).

First-class non service

The Road Traffic Offenders Act 1988, s1(2) creates an irrebuttable presumption of the service of a notice sent by registered post or recorded delivery. If a document is sent by first-class post, there is merely a rebuttable presumption that it will be delivered on the second business day after despatch, so service (on the second day) will be presumed unless (ib s1(3)) the contrary is proved. A motorist's conviction for speeding was quashed in *Gidden v Humberside* (2009), because the notice of intended prosecution, sent by first-class post, was, because of a postal strike, served two days outside the limit.

Junk case

If, pursuant to TULR(C)A 1992, s188 (or the Collective Redundancies

Directive 98/59/EC), you give notice of dismissal on the grounds of redundancy during the minimum period of statutory consultation, when 20 or more employees are to be made redundant at one establishment, the giving of the notice is redundancy, even though it does not take effect until after the end of the consultation period, and the notice is void: *Junk v Kühnel* ECJ (2005). The answer may be that if consultation is completed during the statutory period, you may then give notice as long as it takes effect after its expiry.

Model articles of association

A company must have articles. The model articles in the Companies (Model Articles) Regulations 2008 (SI 2008/3229) will be the articles of every company formed on or after 1 October 2008, unless other articles are adopted. Except for alterations made to the 1985 version of Table A, pursuant to the Companies Act 2006, the articles of association of existing companies continue to apply to them, but existing companies may adopt the new model articles. There are model articles for private companies limited by shares, ditto by guarantee and public companies limited by shares. See Companies Act 2006, ss 18 to 28.

Terminating retainers

A solicitor, Mr Buxton, very sensibly terminated his retainer by a client when it became apparent that the case he was

instructed to pursue was hopeless, but the client would not pay his bill. The HC in *Buxton v Mills-Owen* (2008) prevented him from recovering his costs, because he had wrongfully terminated his retainer. The CA overturned the decision in 2010. Solicitors as officers of the court have a duty not to present points to counsel or the court which they do not consider to be arguable. Mr Buxton's termination was with good cause and he was entitled to his costs.

Titanic, by licence only

Except with a licence from the Secretary of State you may not, within one kilometre of the point 41°43'84"N 49°57'23"W, carry out or permit anyone to carry out any entry into the hull sections of RMS Titanic or activities aimed at the artefacts from RMS Titanic found outside its hull (other than activities relating to the conservation or curation of artefacts), punishable by fine: Protection of Wrecks (RMS Titanic) Order 2003 (SI 2003/2496), made under the Merchant Shipping and Maritime Security Act 1997. If the offence is committed by a body corporate, its directors and managers who consented to it may be punished.

Village green registration

A village green can be registered "if a significant number of the inhabitants of any locality...have indulged as of right in lawful sports and pastimes on the land for a period of twenty years": Commons Act 2006, s15. As of right means without force, secrecy or permission. A developer obtained planning permission to develop land used as a municipal golf course until 2002 and opposed an application to register it, arguing that the other users did not use it as of right, because they deferred to golfers. The Supreme Court allowed the registration in *Lewis v Redcar* (2010). NLJ

Roderick Ramage is a solicitor in private practice at www.law-office.co.uk