

TERMS OF A CONTRACT

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There are four categories of terms:

- Fundamental Terms
- Condition
- Intermediate terms
- Warranties

Fundamental Terms

A fundamental term is one in which if breached goes to the root of the contract and is equivalent to non-performance of the contract. The example provided by Lord Abinger in *Chanter vs Hopkins* is very relevant. He says that if a person asks to be supplied beans but is instead supplied peas, the contract has not been performed. The supply of peas instead of beans is a breach of a fundamental term.

Condition

A condition in the law of contract is a category of terms that is next in the order of importance to fundamental terms. The breach of a condition could cause a contract to be repudiated or cause the defaulting party to pay for damages.

In the case of *Pickard vs Innes*, the defendant offered the plaintiff a job on the condition that he collects permission from his present employers. The plaintiff didn't get the permission and was thus not offered the job.

He sued for breach of contract. The court decided that the request for permission was a condition precedent which wasn't fulfilled. Thus, the inability to fulfill such condition meant that the contract could be repudiated.

Intermediate Terms

Intermediate terms are of recent history and are regarded as an hybrid between condition and warranty. The breach of an intermediate term could lead to the repudiation of a contract or to the payment of damages depending on the consequences of the breach.

Warranties

These are terms the breach of which entitles the affected party to damages and not repudiation of the contract. The distinction between warranties, condition and intermediate terms are at times not so clear cut.

In the case of *Bettini vs Gye*, the plaintiff, a singer in the defendant's opera promised to come 6 days before the opera. He however came two days before the opera and his contract was repudiated. In court, it was held that contract could not be repudiated, the defendant was only liable to damages. See also **S.11(1)(b) SOGA**.

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