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Is your word your bond? The enforceability of verbal agreements



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One of the most searched legal questions is: are verbal agreements valid and binding? Verbal agreements are in fact valid, legally binding and enforceable, subject to a few exceptions.

The difficulty of a verbal agreement arises where there is a dispute between the parties and a breach of the agreement may need to be proven. One must prove that there is in fact a valid agreement in place, as well as the terms and conditions of that agreement. Memories are often unreliable and fade over time, this allows room for inaccuracies and inconsistencies between parties on what was agreed.

In order for a contract to be valid, the following essential elements need to be present:

1. the parties must have the capacity to contract;
2. there must be an offer and acceptance;
3. there must be consideration;
4. the contract must be possible; and
5. the contract must be lawful.

Some form of evidentiary proof is required to prove the existence of an agreement and the terms of a verbal agreement, especially when parties have a difference of opinion on the “Ts and Cs” and/or a claim of breach has been made. This proof may include:

1. recording of a conversation;
2. notes from a conversation;
3. witnesses;
4. a letter, email and/or text message which will assist one to ascertain the contractual relationship between the parties; and/or
5. proof of payment, quotes or transactional statements showing the offer and/or acceptance.

As always, there are exceptions to the rule. According to South African law, there are some contracts which need to be in writing to be valid, for example antenuptial



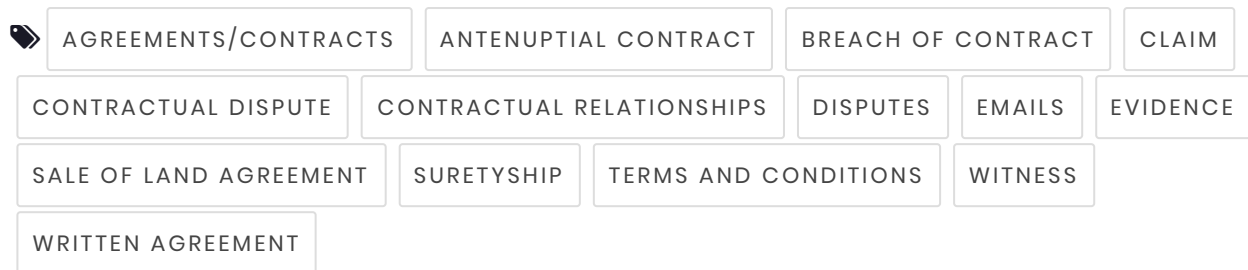


for further information on the above or assistance in drafting an agreement, [we have a team of experts](#) who will gladly assist.

See also:

- [Matter over mind – The advisability of concluding agreements in writing re-emphasised](#)
- [How you sign a contract can determine the recourse available if things go wrong](#)
- [Understanding contracts and dealing with contractual disputes](#)
- [Are “agreements to agree” enforceable?](#)

(This article is provided for informational purposes only and not for the purpose of providing legal advice. For more information on the topic, please contact the author/s or the relevant provider.)



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Cohort 2: Applied Legal Project Management

MAY 3 @ 1:00 PM – **JUN 7 @ 2:00 PM**

Legal Masterclass: Privacy, Cybercrime and KYC

JUN 21 @ 1:00 PM – 2:30 pm

Legal Project Management 101 – Free webinar

JUN 23 @ 1:00 PM – 2:00 pm

Legal Masterclass: Navigating the minefield of divorce

JUL 4 @ 2:00 PM – 3:00 pm

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