

## The Ties That Bind: Contract Laws Underpinning Entertainment

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### Introduction

[9.1] Almost all entertainment productions, ranging from a blockbuster movie with a multi-million dollar budget to a simple handshake arrangement to perform in a club, have at least one common denominator: they involve relationships that are expressly or impliedly underpinned by contract law. In the true sense of the word a 'contract' is simply an enforceable promise or collection of promises. When two or more parties negotiate a contract they are reaching an agreement concerning the rights and obligations of each party, allocating the risk to be borne by each as a result of entering into the relationship and spelling out the mechanics that will govern their relationship. Even where such rights, obligations and mechanics are not expressly agreed, they may be implied into the bargain. When parties enter into a contract they are actually or notionally conscious of the extent of the liability that they are voluntarily assuming and the consequences that may flow if they do not perform their part of the bargain.

This chapter addresses various issues in the spectrum of contract law that have particular relevance in an entertainment context. For convenience, this examination is organised across five broad areas. First, it deals with the manner in which obligations are created before considering factors that may compromise, or vitiate, formation of a valid contract. It then examines the content of contracts, including common terms in entertainment contracts, before addressing the different ways that contracts may be brought to an end and the remedies that may be available for a failure to perform contractual obligations.

### Creating obligations

[9.2] A major issue that frequently arises in an entertainment context arises from the practices of some of those in the industry in relation to contract formation. Ideally, all contracts would be recorded in writing and duly executed by

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