3. Certainty and formalities

This chapter looks at the need for certainty and formalities in contracting. It explores case law which illustrates, on the one hand, that a willingness of the parties to make a contract does not necessarily amount to a legally binding agreement, whilst on the other hand, there is potential for the court to fill in any gaps to give effect to agreements. The issues surrounding an agreement which is expressed to be ‘subject to contract’ are explored in light of the recent Supreme Court case of *RTS Flexible Systems Ltd*. The reasons for when contract formalities may be required are also noted. There is also discussion of electronic contracting, in relation to the introduction of the Electronic Identification and Trust Services for Electronic Transactions Regulations (2016/696).

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