3. Agreement problems

The Casebook series provides a comprehensive selection of case law that addresses all aspects of the subject encountered on undergraduate courses. The courts will enforce an agreement only if it is sufficiently certain in its terms. A contract will not come into existence if certain types of mistakes ‘negative consent’ and so prevent agreement. In relation to certainty, the chapter focuses on vagueness and incompleteness, including agreements to agree and whether there can ever be a duty to negotiate in good faith. It also examines the position where there is no contract due to uncertainty, but there has been performance. This chapter also examines agreement mistakes which prevent formation of an agreement. These mistakes are mutual mistakes (where the parties are at cross purposes) and unilateral mistakes (where one party is mistaken and the other knows or ought to know this, e.g. unilateral mistake as to identity). Finally, the chapter looks at document mistakes and specifically rectification of a written document to reflect
3. Agreement problems

accurately what the parties in fact agreed, and the plea of non est factum
(‘this is not my deed’).