

Business Law

INDIAN CONTRACT ACT, 1872

I Agree



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Introduction

- This act contains description of contract.
- This act was passed by British India.
- This act came into force on september,1,1872.
- This act applicable in all state of India except Jammu & Kashmir.
- Not applicable in J&K because central government have on authority to take legal decision of J&K.(Only authority of external affairs, defence, finance and communication)



Agreement

- Every promise or set of promise forming consideration for each other.

Offer + Acceptance = Agreement
{2(a)} {2(b)} {2(e)}



Contract

- An agreement which is enforceable by law.

Agreement + Enforceability by Law = Contract

{2(e)}

{10}

{2(h)}



Difference Between Agreement & Contract

S. no.	Basis	Agreement	Contract
1.	Meaning	When a proposal is accepted by person to whom it is made , with requisite consideration , it is an agreement	When an agreement is enforceable by law, it becomes contract
2.	Section	Sec.2(e)	Sec.2(h)
3.	Elements	Offer + Acceptance	Agreement + Enforceable by law
4.	Registered	Not necessary	Normally written or registered
5.	Legal Obligations	Not created	Created



Essential Elements of Valid contract {Sec.10}

- There must be two parties.
- There must be legal relationship between parties.
- Both parties are freely concern.
- Both parties must be competent.
- There must be consideration.
- Consideration must be lawful.
- Objective of contract must be lawful.
- Contract must be in written and registered form.



Types of Contract

- There are many types of contract.
 - A. On the basis of Nature -
 - i. Void Agreement Sec.2(g)
 - ii. Valid Contract Sec.2(h)
 - iii. Void Contract Sec.2(j)
 - iv. Voidable Contract Sec.2(i)
 - v. Unenforceable Contract
 - vi. Illegal Agreement



Types of Contract

B. On the basis of Formation & Creation :-

- i. Express Contract
- ii. Implied Contract
- iii. Quasi Contract
- iv. E-Contract

C. On the basis of Nature of Obligation :-

- i. Unilateral Contract
- ii. Bilateral Contract



Types of contract

D. On the basis of Time of Performance :-

- i. Executed Contract
- ii. Executory Contract

E. On the basis of Formalities :-

- i. Formal Contract
- ii. Simple Contract



Types of contract

I. On the basis of Nature -

- ☞ **Void Agreement** : As per sec.2(g), “An agreement not enforceable by law is said to be void”.
- ☞ **Valid Contract** : As per Sec.2(h), “An agreement enforceable by law is a valid contract”.
- ☞ **Void Contract** : As per sec.2(j), “A void contract is a contract which was enforceable by law in the beginning but due to some circumstances it becomes void”.
- ☞ **Voidable Contract** : As per sec.2(i), “A contract which is valid unless until avoided by either the party”.
- ☞ **Unenforceable Contract** : “ A contract which is good in substance but due to technical defects it become unenforceable”.
- ☞ **Illegal Agreement** : “ An agreement which is forbidden and punishable by law”.



Types of contract

II. On the basis of Formation & Creation :-

1. **Express Contract** : “When contract is either written or oral form at the time of formation”.
2. **Implied Contract** : “ When contract is neither in written nor oral form but created by law”. For E.g. –Buying a cup of tea in restaurant.
3. **Quasi Contract** : “ This contract is neither written/oral nor conduct of parties, but created by law”. For e.g.- A, a trader leaves goods at B’s place. B treat the goods as his own and uses the goods . But B is liable to pay for the goods of A because B used the goods for his benefit.
4. **E-Contract** : “An E-Contract is the one , which is entered between parties via internet”.



Types of Contract

III. On the basis of Nature of Obligation :-

- **Unilateral Contract:** “ In this contract one party is fulfilled his/her obligation and other is remaining yet”.

It is also called one sided contract.

For e.g.- A and B entered in a contract. B paints A's home completely as per contract. But A not gives payment yet to B.

- **Bilateral Contract :** “ In this contract , parties are enter in the contract for future”.

It is also called Executory contract.

For e.g.-Amar promises to sell his house for Rs. 5 lakh to Akbar . Akbar agrees to pay the money at the end of month if Amar sold the house in this this month.



IV. On the basis of Time of Performance :-

- ⊙ **Executed Contract** : Both the parties had performed their obligations.
- ⊙ **Executory Contract** : Both the parties yet performed their obligations.

V. On the Basis of Formalities :-

- ✦ **Formal Contract** : It is enforceable by law and in the form of prescribed format.
- ✦ **Simple Contract** : It is enforceable by law but in a simple form.



Offer {Sec.2(a)}

When a person made a proposal, when he signifies his willingness to another to do or to abstain from doing something.



Essential Elements of Valid Offer

- ✓ There must be two parties.
- ✓ It must be Communicated.
- ✓ It must be Express or Implied.
- ✓ It must be Conditional.
- ✓ The offer must be Certain or definite.
- ✓ It must be General or Specific.
- ✓ It makes Legal relation.
- ✓ Non - compliance.



Types of Offer

- ✦ **General Offer** : When offer is given to entire public at a large.
- ✦ **Specific Offer** : When offer is given to a specific person.
- ✦ **Cross offer** : When both the persons are making identical offers to each other in ignorance of other's offer.
- ✦ **Counter Offer** : When offeree wants some changes in the offer given by offeror.
- ✦ **Standing/Open/Counting Offer** : An offer which is allowed to remain open for acceptance over a certain period of time.



Lapse of Offer

- Revocation(reject by offeror).
- Lack of time .
- Death of offeror/offeree.
- Counter offer.
- Rejection by offeree.
- Cross offer.
- Illegality of offer.



Acceptance{ec.2(b)}

When a person made a proposal to another to whom proposal is made, if proposal is assented there to, it is called acceptance.



Who Can Accept ?

- ✓ **In Case of Specific Offer** : Where an offer is made to a specified person, only that specified person can accept it and nobody else.
- ✓ **In Case of General Offer** : Where the offer is made to an uncertain body of persons, anybody can accept the offer.



Essential elements of Valid Acceptance

- Only the person accept the offer to whom proposal is made.
- Only accept when acceptor have knowledge of offer given.
- Absolute & Unconditional.
- On time.
- Communicated.
- In prescribed manner.
- Express or Implied.
- No cross offer.
- Offer once rejected cannot be accepted.



Types of Acceptance

- **Express Acceptance:** An express acceptance occurs when a person clearly and explicitly agrees to an offer .
- **Implied Acceptance:** Implied acceptance is one that in which acceptor not tell or write the acceptance but express through the act of him/her.



Lapse of Acceptance

Expiration or lapse of offer.

Rejection by offeree.

Counter offer.

Conditional acceptance.

Valid revocation by offeree.

Death of offeree.

Cross offer.

Illegal offer.



Consideration {Sec.2(d)}

When at the desire of the promisor, or promisee or any other person has done or abstained from doing or does or abstains from doing, or promises to do or to abstain from doing, something, such an act or abstains or promise is called a consideration for the promise



Essential elements of Consideration

- i. It must move at the desire of the promisor.
- ii. It may move by the promisee.
- iii. It must be past, present or future.
- iv. It need not be adequate .
- v. It must be real.
- vi. It must not be illegal, immoral or opposed to public policy.



Types of consideration

1. **Executed Consideration** : Both parties performed their obligation and consideration paid.
2. **Executory Consideration** : Both parties yet perform their obligations and consideration also remains.
3. **Unlawful Consideration** : Unlawful consideration is any clause in a contract that is forbidden by law is based on fraud or create an injury to another party.
4. **Unreal or Illusory Consideration** : For e.g.-Bob and Sam enter in to contract that require Sam to appears at Bob's ice cream stand every day and pay \$1.00 for which Bob give him ice cream as he wants.
5. **Past Consideration** : For e.g.-X gives a notice in newspaper that his brother is lost . Y will find X's brother . X gives him some reward by his wish for finding his brother.



Exceptional case where no consideration

- a. Love & affection .
- b. Compensation for voluntary service .
- c. Promise to pay a time – barred debt .
- d. Completed gift .
- e. Agency sec (185) .
- f. Charity .
- g. Contract of bailment sec(148) .



Capacity of Contract {Sec.11}

Every person is competent to contract who is of the age of majority according to the law to which he is subject, and who is of sound mind, and is not disqualified from contracting by any law to which he is subject.



Who is Competent ?

- ✓ Major
- ✓ Sound mind
- ✓ Contract not be disqualified by any other law



Who is not Competent ?

- i. **Minor** : According to Indian majority act sec(3) minor is defined as any person under the age of 18 years .
- ii. **Unsound person** : According to sec(12):
 - A person generally sound , occasionally unsound can enter into a contract when he of sound mind .
 - A person generally unsound occasionally sound can enter onto contract when he is sound mind .


E.g. : -Lunatic , Idiots , Drunken or intoxicated persons.

- iii. Alien enemy.
- iv. Insolvent.
- v. Convict.
- vi. Company/corporation against MOA / AOA .Married women (she cannot enter into contract with his relative's property).



Free Consent{Sec.13}

Two or more persons are said to consent when they agree upon the same thing in the same sense



According to Sec 14, consent is said to be free when it is not caused by:

- 1.Coercion (Sec.15) :Threatening others
- 2.Undue influence (Sec.16) .

There is an undue influence between the following persons:


- Principal and agent.
- Superior and subordinate.
- Doctor and patient.
- Father and son.
- Teacher and student.

- 3.Fraud.
- 4.Misrepresentation.
- 5.Mistake.



Legality of Object

A contract must not only be depend on mutual understanding of competent parties but also have a lawful object.



According to sec. 23, object and consideration of an agreement is unlawful under following situation :

- Forbidden by law.
- Defeat the provision of any law.
- Fraudulent.
- Injury to the person /property of another.
- Immoral.
- Agreement opposed to public policy.



Contingent contract{Sec.31}

A contingent contract is a contract to do or not to do something, if some event, collateral to such contract, does or does not happen



Essential Elements Of Valid Contingent Contract

- Two parties.
- Uncertain future event.
- Valid contract.
- No reciprocal promise between parties.



Quasi Contract

There are some contracts wherein the essentials of formation of contracts are absent but they create such obligations which resemble those created by law. These implied contract are known as “Quasi Contract”.

Pullock describes quasi contract as “Contract in Law but not in facts”.



Features of Quasi Contract

- *It is imposed by law and does not arise by agreement.*
- *The duty of party and not the promise of any party is the basis of such contract.*
- *The right under it is always a right to money and though not always to a liquidated sum of money.*
- *The right is available against specific persons and the whole world.*



Performance of Contract


'Performance of Contracts' refers to the fulfillment of their respective legal obligations, created under the contract, by both the parties.



Modes of Contract

- **Actual performance** :- when a party to a contract actually performed what he/she has promised and nothing is remained to be performed.
- **By tender of performance** :- often performance become due and the promisor in such case has to request for performance. If such offer of promisor is refused by the promisee, it is called attempted performance. This is also known as tender.

When performance is not required

- 
- Performance become impossible.
 - Party makes a new contract.
 - Promisee rejected the tender of performance.
 - Promisee neglects or refuses to provide reasonable facilities.
 - Performance is unlawful.



Discharge of Contract

It means termination of contractual relationship between parties.



Modes of Discharge of Contract

- ✓ Discharge by performance.
- ✓ Discharge by agreement or consent.
- ✓ Discharge by impossibility of performance.
- ✓ Discharge by lapse of time.
- ✓ Discharge by operation of law.
- ✓ Discharge by breach of contract.



Remedies for breach of Contract

- **Rescission of Contract** :- when a party to a contract refused to perform or disable himself from performing his promise in its entirety, the promisee may put an end to the contract.
- **Suit for damages** :- Damages are monetary compensation allowed for loss suffered party due to breach of contract.
- **Suit for specific performance** :- in certain cases where damages may not be considered adequate and aggrieved party is not interested in monetary compensation, the court may direct the defaulting party to carry out the promise according to the terms of contract. This is known as specific performance.



Remedies for breach of Contract

- Suit for injunction :- where a party is in breach of a negative term of contract the court may issuing an order, prohibit him from doing so. Such an order issued by court is called an “Injunction”.
- Suit for quantum meruit :- the term “Quantum Meruit” means ‘as much a merited’ or ‘as much as earned’. In other words, it means of a complete of contract, payment in proportion to the amount of work done.



Thank You