



# The Indian Journal for Research in Law and Management

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## UNDERSTANDING THE INDIAN CONTRACT ACT

~ *Tripti Sharma*

### Introduction

The Indian Contract Act is an underlying codification that commands the law related to contract in India. This act governs the genesis, interpretation and applicability of contracts in India. The Indian Contract Act occurred on 1st September 1872 to the entire Indian sub-continent. It provides a legislative framework for individuals and professionals to enrol in transactions and agreements and guarantees justness, calculability, and preservation of individual rights. This blog focuses on providing a panoramic overview of the Indian Contract Act and its key provisions.

Currently, the Indian Contract Act is bifurcated into two parts:

1st Part, General Principles of Law of Contract – Sections 1 to 75 (Chapters 1 to 6)

2nd Part, Deals with Special kinds of Contracts such as

- Contract of Indemnity and Guarantee (Chapter 8)
- Contract of Bailment and Pledge (Chapter 9)
- Contract of Agency. (Chapter 10)

### What is a Contract?

The law of contract is largely contained in the Indian Contract Act, of 1872. However, in addition to the above, in respect of matters on which the Indian Contract is silent, certain principles of English Common law as recognized by Indian Courts are still applicable in the Indian Contract Act, 1872 + principles of Common law recognized by Indian Courts.

The Contract Act is a central legislation enacted during British times in the year 1872. This Act was largely based on the principles of **English Common Law** prevailing at the time. English Common Law was the uncodified law of English courts based largely on customs, usages and dealings of merchants or traders in England the Act is not a complete code of contracts and merely deals with general principles of contract and some specific contracts.

An Agreement enforceable by Law is said to be a Contract. And An agreement comprises two elements—‘offer’ and ‘acceptance’. The party making the offer is called the promisor (offeror), and the party to whom the offer is made is called the promisee (offeree). Thus, there must be a minimum of two parties to an agreement. Thus,

Contract = Agreement + Enforceability

Agreement = Offer + Acceptance

### How a Contract came into existence?

An offer or a proposal is made by one person to another person of the willingness to do something or abstain from doing something. A minimum of two parties makes a contract. The parties in the contract either 2 or more than 2 should fulfill all the essential elements of the contract as listed in The Indian Contract Act, 1872.

### Essential terms to be known

- A proposal means an **Offer**.
- A person making the offer is known as an **Offerer**.
- The person to whom the offer is made is called the **Offeree**.
- The person accepting the proposal is called a **Promisee**

### Essential of a Valid Contract

1. There should be an agreement between two or more than two parties. The offer should be communicated between the parties to the agreement.
2. The Contract should be enforceable by the law, i.e. It should create a legal obligation to the parties to the contract. Which means the contract is compelled to be observed and forced to be obeyed.

3. The Parties entering into the contract should be major, i.e. 18 or above 18 years of age and sound mind, i.e. capable of understanding rationally and logically and mentally fit. The person should not be disqualified by law from entering into a contract.
4. The parties entering into a contract should have given their consent freely not under any pressure. In other words, the parties to the contract should agree upon the same thing in the same sense.
5. The contract must involve an exchange of something of value between the parties, which is called lawful consideration.
6. The parties entering into a contract should have a lawful object, i.e. the object should not be immoral, fraudulent, not opposed to any public policy, not forbidden by law.
7. The agreement to the contract should be clear, i.e. laid down in simple language.
8. An agreement to the contract should be in Writing, duly stamped (stamped by Courts) and attested (support other relevant particular documents).
9. A contract is made when the parties have the intention to create a legal relationship.
10. The Agreement should not be expressly declared Void (not legally valid)

### **Classification of a Contract**

Contracts can be classified into four broad divisions namely

1. Based on the parties of the contract
2. Based on the time of performance of a contract
3. Based on the formation of a contract
4. Based on the Enforceability of the Contract

### **Types of Contracts**

The Indian Contract Act states different types of contracts, including:

- **Express Contracts:** Contracts that are either orally or in writing.
- **Implied Contracts:** Contracts where the terms are presumed from the act or activities of the parties to the contract
- **Void Contracts:** Contracts that are unenforceable from the beginning due to being illegal or against public policy.
- **Voidable Contracts:** Contracts that are initially valid but can be avoided or cancelled at the option of one or both parties.

- **Unenforceable Contracts:** Contracts that cannot be enforced due to technical defects, such as lacking proper written form.
- **Contingent Contracts:** 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.

### **Discharge of Contract**

A Contract can be terminated or discharged in the following situation.

1. By mutual agreement- When the parties to the Contract agree to discharge the contract without any problem.
2. Lapse of time- When the period of the contract is over within the time frame.
3. By Operation of Law- If any of the parties turns unsound mind or in case of death.
4. By Performance- The Contract should not face misrepresentation or fraud.

### **Conclusion**

The Indian Contract Act, 1872 is the backbone of contract law in India. By understanding the Act's essential elements, types of contracts, and provisions for performance, breach, and discharge, individuals and businesses can do transactions with confidence, knowing their rights and obligations.