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## Indian Contract Act, 1872 Part (i)

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The Indian Contract Act came into effect on 1st September 1872 and is one of the oldest mercantile laws of the country. This law provides guidelines that help in the formation and compliance of Contracts in a regulated and organized manner. These rules and regulations provide the framework for the course of Action to be followed in case of any disputes arising from the Contracts. The Act has 266 sections and is applicable to the entire country except for Jammu and Kashmir.

Let's understand the key elements of this Act and the definitions of its important features.

The Indian Contract Act, 1872 provides the guidelines for forming a valid Contract. It plays an important role wherever there is an agreement or a Contract. The Contract Act defines the term 'Contract' under its section 2 (h) as 'An agreement enforceable by law'.

This definition has two key elements: agreement and enforceable by law.

- **Agreement-** An agreement is every promise or the set of promises that form the consideration for each other.
- **Enforceable by law-** When these promises are held valid in the court of law and the parties of the Contract can be held liable to complete their promises, the Contract is enforceable by law.
- **Promise-** Section 2(b) of the Indian Contract Act, 1872 defines a promise as: 'when the person to whom the proposal is made signifies his assent thereto, the proposal becomes an accepted proposal. A proposal when accepted, becomes a promise'. A promise to do or abstain from doing something becomes an agreement when it is accepted by all the parties involved in the agreement.

### What is an Agreement?

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An agreement is a promise or commitment given by one party to another party. It includes an offer that is made by one person and accepted by the other person. In simple words, an agreement happens when an offer is made by one person and accepted by another person. It consists of two or more parties. It becomes an agreement only if the essential ingredients are fulfilled. There must be a consideration.

### Essentials of Forming an Agreement:

- **Parties** - There must be two or more parties to form an agreement.
- **Offer or proposal** - The proposal must be made by one party to the other.
- The person(s) to whom the proposal has been made must clearly understand all the aspects and terms of the proposal
- **Acceptance** - The offeree or the person to whom the offer has been made, must accept the proposal and give his assent to all its terms
- **Promise** - When the proposal is accepted it becomes an accepted proposal or a promise. A proposal is not synonymous to a promise but becomes one only after its acceptance
- **Consideration** - An agreement is accepted with a consideration which is the price for the promise made to be paid as a consideration.

### Types of Agreement

**Written agreement** - Agreements are done by writing in a special layout called written agreement. It contains certain terms and conditions which are accepted by the parties with consideration.

**Oral Agreement** - An agreement that has a set of gestures and terms agreed via spoken or by spoken communication.

### To Sum it Up:

- Offer + Acceptance = Agreement
- Agreement / Accepted Promise + Enforceable by Law = Contract

### What is a Contract?

An agreement enforceable by law is called a Contract. An agreement cannot be said as a Contract unless and until it is enforced by law. A Contract is an agreement that is accepted by both parties and is enforceable by law. It gives certain rights to all parties involved and also bestows on them certain obligations that they must fulfil. Contract is an agreement but not all agreements are Contracts.

### Essentials of a Valid Contract

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For a Contract to be valid, it must be enforceable by law and must include the following essentials given under Section 10 of the Indian Contract Act.

- **Two Parties-** A valid Contract must include a minimum of two parties; one that makes the offer and the other to whom the offer has been made and who must accept the proposal for it to become enforceable.
- **Legal Obligation-** The parties entering into a Contract must have the intention of entering into a legal obligation. Social agreements and obligations are not considered a Contract as they do not create any legal obligations on any party.
- **Certain Terms-** A legal Contract must have certainty of meaning.

Example- A agrees to buy B's house for a reasonable amount. A valid Contract must define the exact amount that A intends to pay B for buying his house.

- **Possibility of Performance-** A Contract is considered valid only when it does not involve the performance of an impossible Act.

Example- A enters into a Contract with B to bring back to life B's father for ten thousand rupees. Since the Contract involves the performance of an impossible Act, it is not a valid Contract

- **Free Consent-** The parties entering into a Contract must give their free consent to the Contract.
- **Competency-** The parties must be legally competent to enter into a Contract. According to Section 11 of the Indian Contract Act, people who are considered competent to enter into a Contract include: a person who is of the age of majority as per law, of sound mind, and not disqualified by law from entering into a Contract (this includes convicts, alien enemy, foreign national, etc)
- **Consideration-** The Contract must involve consideration as per the principle of 'quid pro quo' or something in return. A valid Contract must include a consideration that must be something of value.
- **Legal Consideration-** Section 23 of the Contract Act defines a legal consideration as something not forbidden by law.

## Types of Contract

1. **Valid Contract** - A Contract is said to be a valid Contract when the Contract has all the essential ingredients present in it.
2. **Void Contract** - A Contract is said to be void when a Contract is void from beginning when it was made, and which cannot be enforceable by law. It lacks enforceability.

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**3. Voidable Contract** - A voidable Contract is a Contract, not a void Contract. This contract can be affirmed or rejected by the parties. This Contract starts as valid but later there will be an option for the parties to move forward with it or deny it. It can be declared invalid at the request of any party because of any defect.

**4. Illegal Contracts** - When the subject matter or the terms or conditions are not accepted by society and it is already unlawful then it becomes an illegal Contract.

## Breach of Contract

Breach of Contract occurs when one of the parties fails to abide by the terms and conditions accepted in the Contract. It can happen by the non-performance of certain terms and conditions as mentioned in the Contract. The breach of Contract can be resolved among the parties and if it is still not resolved then they can approach the court.

### There Are Three Conditions To Breach Of Contract -

- If party fail to deliver certain conditions in a certain duration of time
- If the party does not meet the terms of the Contract
- If the party fails to perform.

Breach of Contract is a civil wrong. One who breaches the Contract may face legal Actions.

## Solved Questions on the Indian Contract Act, 1872

**1. A Agrees to Buy B's House for a Sum of Fifty Lakh Rupees. Is this a Valid Contract?**

**Ans:** It will be a valid Contract only if:

- B has been made a party to this Contract
- Since the statement says that A 'agrees' to buy the house, it denotes that an offer has been made to A and if he accepts the offer he must communicate his acceptance to B.

**2. James Puts an Advertisement Outside His House for Selling it for One Lakh Rupees. Jack Sees the Advertisement and Agrees to Buy the House but James Refuses to Sell the House to Him. Can Jack Sue James for Breach of Contract?**

**Ans:** The advertisement was only an invitation to offer and not an offer by itself. Since James had not accepted Jack's offer or bid of purchase there was no Contract between them. Acceptance is an integral part of a valid Contract. Hence Jack cannot sue James for a breach of Contract.

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## FAQs on Indian Contract Act, 1872 Part (i)

### 1. What are the Main Differences Between an Agreement and a Contract?

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Let's look at some of the main differences between an agreement and a contract according to the guidelines under the Contract Act.

1. An enforceable agreement forms a contract while a promise that is accepted by all the parties involved forms an agreement
2. A contract is enforceable by law but an agreement is only a socially acceptable promise that may or may not be enforceable by law
3. A contract creates a legal obligation while an agreement does not create any legal obligation
4. All contracts are agreements that are enforceable by law but not all agreements are contracts.

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## 2. What is a Legal Consideration?



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## 3. What is free consent?



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## 4. How is the Contract valid?



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## 5. What is a breach of Contract?



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