

Introduction

A contract is defined as an agreement made enforceable by law between two or more persons, creating and defining obligations between the parties under [Section 2\(h\)](#) of the [Indian Contract Act, 1872](#). According to Sir F. Pollock, *“every agreement and promise enforceable by law is a contract”*. Here it shows that a contract has two basic elements:

1. An agreement
2. Enforceable by law.

For example, if there is a contract between P and Q that P will make a drawing for Q and Q will pay Rs. 550 to P, this agreement becomes a contract. And on account of the agreement, Q is entitled to the act done. The process to form a contract plays an essential role throughout, and the process has some basic elements such as an offer, followed by acceptance, promise, consideration, and agreement, enforceable by law, thereby forming a contract.

Elements of contract

The elements that form a contract are:

1. **Offer:** [Section 2\(a\)](#) of Indian Contract Act 1872, defines proposal as, “when one person signifies to another his willingness to do or to hold back from doing anything, with the view to obtain the assent of that other to such act or abstinence, he is said to make a proposal.
2. **Acceptance:** [Section 2\(b\)](#) of the Indian Contract Act, 1872 defines acceptance as, giving of assent to the proposal that is made by the offeror. This acceptance showcases that the proposal made is accepted.
3. **Promise:** When someone expresses his willingness to do or not to do something, he makes a proposal. When the promisee accepts that proposal, the proposal becomes a promise.
4. **Agreement:** The mutual obligation created between private parties that is enforceable by law are called agreements.
5. **Contract:** Section 2(h) of the Indian Contract Act of 1872, defines a contract as an agreement enforceable by law.

Role of acceptance

After an offer is made, the next important and essential element in the formation of a contract is acceptance. It has been remarked that it is acceptance alone that converts an offer into a promise, thus creating mutual obligations and rights between the contracting parties. In ordinary language, it means to signify the unconditional assent to the proposal by the acceptor.

According to Section 2(h) of the Indian Contract Act, 1872, the definition of acceptance states that *“when the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted”*. A proposal, when accepted, becomes a promise and creates mutual obligations and rights between the contracting parties.

Types of acceptance

- **Expressed acceptance:** If the acceptance is written or oral.
- **Implied acceptance:** If the acceptance is shown by conduct

- **Conditional acceptance:** When a person to whom an offer has been made tells the offeror that he or she is ready to accept the offer with certain changes made to the condition of the offer.

For example, A offers to sell his watch to B over E-mail. B responds to that E-mail by saying that he accepts the offer to buy; it is a form of expressed acceptance. Whereas, if a customer orders food, the restaurant owner is obligated to serve the food, and the customer is required to pay the prices listed on the menu for it. Hence, an implied contract is created.

Legal rules relating to acceptance

In order to create a valid acceptance, there are some legal rules that must be followed:

Acceptance must be absolute and unqualified

The first and foremost essential of a valid acceptance is that it must be absolute and unconditional as well. According to [Section 7](#) of the Act of 1872, to convert a proposal into a promise, the acceptance must be absolute and unqualified. If there is a variation in the acceptance, the acceptance will not be considered acceptance but a counter-proposal itself, and there is no contract unless the counter proposal is accepted by the original proposer.

For example, A offered to purchase a property on certain terms, saying that possession would be given before March 5. B agreed to the conditions but said he would give possession on the 1st of April; it was not held to be an acceptance of A's offer.

In [Hyde v. Wrench](#) (1840), the defendant offered to sell the plaintiff his farm for \$1,000. However, the plaintiff only agreed to pay \$950. Later, when he agreed to pay \$1,000 for the farm, the defendant refused to sell it. The plaintiff sued the defendant for the same, thereby approaching the court of law. It was observed that the plaintiff's offer of \$950 was a counteroffer, which rendered the initial offer invalid. Thus, the plaintiff's lawsuit was dismissed.

Communication of acceptance must be made by the acceptor or his agent

A valid communication of acceptance must be made either by the offeror himself or his authorised agent. Any communication of acceptance by any other person will not be valid.

In [Powell vs. Lee](#) (1908), the board of managers of a school passed a resolution to select the plaintiff for the post of headmaster, but the decision about his selection was not told or communicated to him. One of the managers informed him of the results of the selection, but later on, the board of managers rescinded their decision, and consequently, the plaintiff was not selected as the headmaster. The King's Bench Division held that no contract was formed because the communication of acceptance to be valid must be made by the offeree himself or an authorised agent and not by any unauthorised person.

The acceptance must be expressed in some usual and reasonable manner

According to Section 7 of the Indian Contract Act, 1872, the acceptance must be expressed in some reasonable and usual manner, unless the proposal is made in the manner in which it is to be accepted. If the proposal prescribes a manner in which it should be or is meant to be accepted, and if the acceptance is not made in such a manner, then the proposer may, within a reasonable time after the acceptance is communicated to him, insist that his proposal be accepted in the manner it was meant and not otherwise. If he fails to do so in the prescribed manner, he accepts the acceptance.

For example, if P offers Q to sell his watch for Rs. 500, Q may accept this offer orally, by sending a telegram, or by sending a letter. But if P says in the offer that acceptance is to be communicated only with a telegram text, then Q should accept it by sending the telegram text. And if Q sends a postcard

for acceptance, then P can object to it and insist that his offer is only accepted via telegram. But if P does not insist upon it, then he is accepting the acceptance as actually communicated.

If the manner of acceptance is not prescribed, the acceptance must be expressed in some reasonable and usual manner. The credibility of being reasonable will depend on the circumstances of the particular case and the nature of the proposal. If the proposal is made via text, then the acceptance is also expected by the text, but if the proposal is made orally, an oral acceptance is accepted.

Acceptance of an offer is the acceptance of all its terms

If the terms of an offer are not apparent on the face of it and no reasonable precaution is taken to draw the attention of the acceptor, then those terms will not be considered binding. For example, if the attention of the passenger was not drawn to the clause saying that "the bus company will not be liable for any loss or damage of the luggage", then it will be held that in the suit for the loss of luggage, the bus authority is not liable.

Thus, in the case of [*Harris vs. Chicago Great Western Ry. Co.*](#) (1952), Harris deposited luggage at the cloak room and received a ticket on which it was printed that, "*left subject to the condition on the other side. This ticket will be given up when the luggage is taken away*". On the back of the ticket was a condition that the company would not be responsible for loss of or injury to the luggage beyond the value of \$5 unless extra payment was made. He knew that there were conditions on the back but didn't read them, and later on the luggage was lost. It was held that the company was not liable as the extra payment had not been made.

A mere answer to a question can neither constitute an offer nor acceptance

A mere answer to a question will not constitute either an offer or acceptance. There must be an expression of willingness to be bound.

Acceptance may be expressed or implied

An acceptance of an offer may be expressed or implied. Where an offer is accepted by words, written or oral, the acceptance is called express. When an offer is accepted by conduct, the same is termed as implied.

Mental acceptance is no acceptance

According to Section 2(b), for an acceptance to be binding, it must be communicated. An intention to accept or even a mental decision to accept a proposal does not give rise to a contract. There must be some external expression of speech, writing, or other act. Even if the offeree has made up his mind about a final acceptance, the agreement is still not complete. There should be an external manifestation of assent in the words spoken or act done by the communication of acceptance to the offeror.

Acceptance of the general offer need not to be communicated

In order to form a legit and valid contract, acceptance of the terms of the offer by the person to whom it was made must be communicated to the person making the offer. An acceptance not communicated to the person making the offer will not bind him to the contract. But in the case of general offers, formal communication of acceptance is not necessary. Fulfilment of the conditions given about the offer is sufficient.

Revocation of acceptance

A proposal may be withdrawn at any time up to the completion of the communication of its acceptance as against the proposer, but not after that. Before the acceptance has been fully communicated to the acceptor, it has the potential to be revoked. Let us take, for example, that A offers to sell him his land to B. B responds to the same by post. Before or at the time B posts his letter of acceptance, A may withdraw his offer. But the same cannot be done after the post has been reached. Similarly, B may withdraw his consent at any time before the post reaches A.

There are two conditions by which acceptance of an offer can be revoked are as following-

(i) **By lapse of time-** If acceptance is not made, a proposal can be understood to be revoked owing to a discharge of time.

(ii) **By notice-** An offer may be revoked by communication of notice to the offeree by the offeror before the communication of acceptance is completed.

Modes of acceptance

There are two modes by which acceptance can happen, they are following as –

1. **Communication of acceptance by act-** It includes the communication via words, which could be written/oral. So will include communication through calls, mails, text etc.
2. **Communication of acceptance by conduct-** The offeree can convey the acceptance through some action of his/his conduct. For example, when you are boarding a bus, you are expected to pay the fare via conduct.

Conclusion

Acceptance is considered one of the foremost steps in the process of contract formation. The need for knowing what acceptance signifies and what are the modes involved in the same, this article has tried to bring out the same by informing basics about acceptance to the readers. In order to understand the concept of contract, acceptance and its mode as per the Indian Contract Act, 1872, need prime attention.