

MAR GREGORIOS COLLEGE OF ARTS & SCIENCE

Block No.8, College Road, Mogappair West, Chennai – 37

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DEPARTMENT OF BUSINESS ADMINISTRATION

SUBJECT NAME: BUSINESS REGULATORY FRAMEWORK

SUBJECT CODE: MAM4M

SEMESTER: IV

PREPARED BY: PROF.BABITA PREM

UNIT - 1

INDIAN CONTRACT ACT 1872

CONTRACT:

An agreement enforceable by law

AGREEMENT:

Offers plus acceptance is called agreement.

PROMISE:

" When the person to whom a proposal is made signifies his assent there to a proposal is said to be accepted when proposal is accepted it becomes promise".

ESSENTIAL ELEMENTS OF VALID CONTRACTS

- Offer and acceptance
- Intention to create legal relationship
- Consideration
- Capacity of parties
- Free and genuine consent
- Lawful object
- Agreement must not be declared void (invalid)
- Certainty and possibility of performance
- Legal formalities

DISCHARGE OF CONTRACT:

- By Agreement
- By performance of the contract
- By lapse of time
- By operations of law
- By material alteration

- Subsequent Impossibility
- By breach

QUASI CONTRACT:

Quasi contract is a contract created by law not by parties

CLASSIFICATION OF CONTRACT:

I. Validity

- void agreement
- void contract
- voidable contract
- illegal contract

II CLASSIFICATION ACCORDING TO FORMATION:

- Express contract
- Implied contract
- Quasi contract

III CLASSIFICATION ON THE BASIS OF THE OBLIGATION TO PERFORM:

- Unilateral contract
- Bilateral contract

IV CLASSIFICATION ON THE BASIS OF EXECUTION

- Executed contract
- Minor in Indian law
- Person of unsound mind

SALES OF GOODS ACT 1930

An it came to enforce an 1st July 1930. prior to this act the law of sales of goods was contained in chapter VII of Indian contract act 1872.

CONTRACT OF SALES

Sec 4 of the act defines contract of sales as "An contract where by the order transer or agree to transfer the property in goods to the buyer for a price.

ESSENTIAL OF A CONTRACT OF A SALE:

- Two parties
- Goods
- Price
- Contract
- Transfer of general property

CAVEAT EMPTOR:

Cavert emptor can talk each " let the buyers beware when the buyer buyers some goods we must examine the goods to be purchase and satisfied himself.

EXCEPTION TO CAVERT EMPTOR

- Fitness for buyers purpose
- Merchantable quality
- Usage of trade
- Consent by fraud

RIGHTSAY UN PAID SELLER

- Against the goods
- Against the buyers personally

CLASSIFICATION OF GOODS

- Existing goods
- future goods
- contingent goods

EXPRESS AND IMPLIED CONDITIONS OF WARRENTIES:

- Conditions as a title (sec 14a)

- sale by description (sec 15)
- sale by sample (sec 17)
- sale by description as well as by sample (sec15)
- condition as to quality of filters (sec16-1)
- conditions as to merchantability (sec 16-2)
- conditions as to wholesomeness
- conditions Implied by custom

DEFINE AGENT :

An agent is a person employed from any act for another or to represent another in dealing with third person (sec 182)

The person for whom such act as done or who is so, represented is called principle.

CREATION OF AGENT:

1. Agency by express agreement
2. Agency by Implied Agreement.
3. Agency by ratification
4. Agency by operation of law

CLASSIFICATION OF AGENT:

1. Special agent
2. General agent
3. universal agent

TERMINATION OF AGENCY:

1. Termination of agency act by parties
2. termination of agency by operation of law
3. Irrevocable Agency

UNIT - 2

BRIEF OUTLINE OF INDIAN COMPANIES ACT 1956

Companies Act 1956 explains about the whole procedure of the how to form a company, its fees procedure, name, constitution, its members, and the motive behind the company, its share capital, about its general board meetings, management and administration of the company including an important part which is the directors as they are the decision makers and they take all the important decisions for the company their main responsibility and liabilities about the company matter the most. The Act explains about the winding of the business as well and what happens in detail during liquidation period.

Company objective and legal procedure based on the Act

The basic objectives underlying the law are:

A minimum standard of good behavior and business honesty in company promotion and management.

Due recognition of the legitimate interest of shareholders and creditors and of the duty of managements not to prejudice to jeopardize those interests.

Provision for greater and effective control over and voice in the management for shareholders.

A fair and true disclosure of the affairs of companies in their annual published balance sheet and profit and loss accounts.

Proper standard of accounting and auditing.

Recognition of the rights of the rights of shareholders to receive reasonable information and facilities for exercising an intelligent judgment with reference to the management.

A ceiling on the share of profits payable to managements as remuneration for services rendered.

A check on their transactions where there was a possibility of conflict of duty and interest.

A provision for investigation into the affairs of any company managed in a manner oppressive to minority of the shareholders or prejudicial to the interest of the company as a whole.

Enforcement of the performance of their duties by those engaged in the management of public companies or of private companies which are subsidiaries of public companies by providing sanctions in the case of breach and subjecting the latter also to the more restrictive provisions of law applicable to public companies.

UNIT - 3

BRIEF OUTLINE OF FEMA - CONSUMER PROTECTION ACT

The Foreign Exchange Management Act, 1999 (FEMA), is an Act of the Parliament of India "to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India".[1] It was passed in the 29th December 1999 in parliament, replacing the Foreign Exchange Regulation Act (FERA). This act makes offences related to foreign exchange civil offenses. It extends to the whole of India,[2] replacing FERA, which had become incompatible with the pro-liberalization policies of the Government of India. It enabled a new foreign exchange management regime consistent with the emerging framework of the World Trade Organization (WTO). It also paved the way for the introduction of the Prevention of Money Laundering Act, 2002, which came into effect from 1 July 2005.

Regulations/Rules under FEMA

- Foreign Exchange Management (Current Account Transactions) Rule, 2000
- Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000
- Foreign Exchange Management (Transfer or Issue of any Foreign Security) regulations, 2004
- Foreign Exchange Management (Foreign currency accounts by a person resident in India)Regulations, 2000
- Foreign Exchange Management (Acquisition and transfer of immovable property in India) regulations, 2018
- Foreign Exchange Management (Establishment in India of branch or office or other place of business) regulations, 2000

- Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016
- Foreign Exchange Management (Export of Goods and Services) regulations, 2015
- Foreign Exchange Management (Realization, repatriation and surrender of Foreign Exchange) regulations, 2000
- Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2000
- Foreign Exchange (Adjudication Procedure and Appeals) rules,
- Foreign Exchange Management (Borrowing and Lending) Regulations, 2018
- Foreign Exchange Management (Cross Border Merger) Regulations, 2018
- Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017
- Foreign Exchange Management (Remittance of Assets) Regulations, 2016
- Foreign Exchange Management (Deposit) Regulations, 2016
- Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016

UNIT - 4

THE LAW OF TRADE MARKS :

Trademark defined under Section 2 (zb) of the Trade Marks Act, 1999 as, "trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours".

Trademark law 2002, suggests that trademark can be registered in India[8] under the following classes:

Class 1. Chemical used in industry, science, photography, agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions;

tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesive used in industry

Class 2 . Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordents; raw natural resins; metals in foil and powder form for painters; decorators; printers and artists

Class 3 . Bleaching preparations and other substances for laundry use; cleaning; polishing; scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions, dentifrices

Class 4 . Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels(including motor spirit) and illuminants; candles, wicks

Class 5 . Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; materials for stopping teeth, dental wax; disinfectants; preparation for destroying vermin; fungicides, herbicides

Class 6. Common metals and their alloys; metal building materials;

transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores

Class 7 . Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs

Class 8 . Hand tools and implements (hand-operated); cutlery; side arms; razors

COPYRIGHT:

The Copyright Act 1957 (as amended by the Copyright Amendment Act 2012) governs the subject of copyright law in India. The Act is applicable from 21 January 1958. The Copyright Act 1957 was the first post-independence copyright legislation in India and the law has been amended six times since 1957.

PATENET:

A patent is the granting of a property right by a sovereign authority to an inventor. This grant provides the inventor exclusive rights to the patented process, design, or invention for a designated period in exchange for a comprehensive disclosure of the invention.

DESIGN:

A design is a plan or specification for the construction of an object or system or for the implementation of an activity or process, or the result of that plan or specification in the form of a prototype, product or process. The verb to design expresses the process of developing a design.

TRADE RELATED INTERLECTUAL PROPERTY RIGHTS (TRIPS)RTP:

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is the most comprehensive multilateral agreement on intellectual property (IP). It plays a central role in facilitating trade in knowledge and creativity, in resolving trade disputes over IP, and in assuring WTO members the latitude to achieve their domestic policy objectives. It frames the IP system in terms of innovation, technology transfer and public welfare. The Agreement is a legal recognition of the significance of links between IP and trade and the need for a balanced IP system.

IDRA AN OVERVIEW:

An industry is the production of goods or related services within an economy. The development and regulation has been discussed and dealt under the Industries (Development and Regulation) Act, (IDRA), came into force from 8th May 1952 under a notification of the Central Government published in the Gazette of India.

SCOPE OF THE ACT:

- An industrial undertaking (also called a factory) for the purpose of the Act is the one where manufacturing process is being carried on:
- With the aid of power provided that fifty or more workers are working or were working on any day of the preceding twelve months; or
- Without the aid of power provided that one hundred or more workers are working or were working on any day of the preceding twelve months.

- The Act applies only on industrial undertakings. Trading houses and financial institutions are outside the purview of the Act.

UNIT -5

CYBER LAW:

The information technology act 2000

OBJECTIVES OF THE ACT:

- To grant legal recognition for transaction carry out by means of electronic data interchange and other mean of electronic commerce is the place of paper based method of communication.
- To give legal recognition to digital signature for authentication of any information or matter which requires authoritarian of any law.
- To facilitate electronic files of Government department.
- To facilities storage of data

FEATURES OF THE ACT:

- Electronic contract had been made legally valid if made through secure electronic communication.
- legal recognition has been granted digital signature.
- Securities procedure for electronic recodes and digital signature ,may be laid.
- The act will be also apply on offices or contravention committed outside India.
- Provision has been made for the consequence of cyber regulations and advisory comity to advice central government and control.

THE VARIOUS IMPORTANT TERMS USED IN THIS ACT:

Information technology act - 2000

Access - It means gaining entry into instructing or communication with logical, arithmetical or memory function resources of a computed or computer network.

DIGITAL SIGNATURE:

MEANING:

Digital signature of cyber act of any record by subscriber means of electric method or procedure according to provision of Sec-3

ELECTRONIC GOVERNANCE: (E- Governance)

- Community management system
- Transition management system
- Knowledge management system
- Infrastructure management system

CYBER CRIME:

The term " cyber crime", " computer crime" (or) related crime and high technology crime are often used inter changeably without an appreciation of different substantive grounds.

CHARACTERISTICS OF CYBER CRIME:

- Anonymity
- A lack of understanding
- Silence in nature:
- Large operational canvas
- Almost no physical evidence
- High Impact and Intensity
- Far away from science of crime

MEANING OF ELECTRONIC RECORD:

It means data , record or data generator Image or sound store received or send in a electronic forms or microfilm or computer generator micro film etc...

CONTROLLING AND CERTIFYING AUTHORITY:

NIC- (National information center)

TCS- (TATA consultancy sences)

CYBER APPELLATE TRIBUNAL:

- Establishment of cyber appellate tribunal (sec-48)
- Composition of cyber appellate tribute (sec-49)
- Qualification for appointment as presiding officer of cyber appellate tribute (sec-50) High court government
- Terms of office (sec-51)

