

# Notes on contract

Chetna Nayak  
Asst. Professor  
Management Department  
Durga Mahavidyalaya Raipur

## Introduction

To define a contract, is to explain what a contract is. Contracts are the foundational elements not just of every business, but of human cooperation and society. A contract is an agreement (oral or written) that enable parties (individuals or businesses), businesses, and society to come together and collaborate towards their specific desires and needs. They are official agreements that are enforceable by law.

In other words, a **contract is a legal obligation.**

**contract**, in the simplest definition, a promise enforceable by law. The promise may be to do something or to refrain from doing something. The making of a contract requires the mutual assent of two or more persons, one of them ordinarily making an offer and another accepting. If one of the parties fails to keep the promise, the other is entitled to legal redress. The law of contracts considers such questions as whether a contract exists, what the meaning of it is, whether a contract has been broken, and what compensation is due the injured party.

## Meaning and Definition

The Indian Contract Act, 1872 defines the term “Contract” under its section 2 (h) as “An agreement enforceable by law”. In other words, we can say that a contract is anything that is an agreement and enforceable by the law of the land.

This definition has two major elements in it viz – “agreement” and “enforceable by law”. So in order to understand a contract in the light of The Indian Contract Act, 1872 we need to define and explain these two pivots in the definition of a contract.

### Agreement

In section 2 (e), the Act defines the term agreement as “every promise and every set of promises, forming the consideration for each other”.

Now that we know how the Act defines the term “agreement”, there may be some ambiguity in the definition of the term promise.

## Promise

The Act in its section 2(b) defines the term “promise” here 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”.

In other words, an agreement is an accepted promise, accepted by all the parties involved in the agreement or affected by it. This definition says that in order to establish or draft a contract, we need to initiate some steps:

- i. The definition requires a person to whom a certain proposal is made.
- ii. The person (parties) in step one has to be in a position to fully understand all the aspects of a proposal.
- iii. “Signifies his assent thereto” – means that the person in point one accepts or agrees with the proposal after having fully understood it.
- iv. Once the “person” accepts the proposal, the status of the “proposal” changes to “accepted proposal”.
- v. “Accepted proposal” becomes a promise. Note that the proposal is not a promise. For the proposal to become a promise, it has to be an accepted proposal.

To sum up, we can represent the above information below:

**Agreement = Offer + Acceptance.**

## Enforceable By Law

Now let us try to understand this aspect of the definition as is present in the Act. Suppose you agree to sell a bike for 30,000 bucks with a friend. Can you have a contract for this?

Well if you follow the steps in the previous section, you will argue that once you and your friend agree on the promise, it becomes an agreement. But in order to be a contract as per the definition of the Act, the agreement has to be legally enforceable.

Thus we can say that for an agreement to change into a Contract as per the Act, it must give rise to or lead to legal obligations. In other words, must be within the scope of the law.

Thus we can summarize it as :-

**Contract = Accepted Proposal (Agreement) + Enforceable by law  
(defined within the law)**

## **Difference Between Agreement And Contract**

Let us see how a contract and agreement are different from each other. This will help you summarize and make a map of all the important concepts that you have understood.

<b>Contract</b>	<b>Agreement</b>
A contract is an agreement that is enforceable by law.	A promise or a number of promises that are not contradicting and are accepted by the parties involved is an agreement.
A contract is only legally enforceable.	An agreement must be socially acceptable. It may or may not be enforceable by the law.
A contract has to create some legal obligation.	An agreement doesn't create any legal obligations.
All contracts are also agreements.	An agreement may or may not be a contract.

## **Types of Contract**

The Indian Contract Act classifies a contract on the basis of various criterion, the likes of which is covered in this article. A contract, in general, is a written or spoken agreement

which particularly deals with employment, sales or tenancy that is enforceable by law. In this article, we look at the different types of contract under the Indian Contracts Act.

## **Basis of Classification**

A contract is classified on the basis of the following:

- Formation
- Nature of Consideration
- Execution
- Validity

## **On the Basis of Formation**

1. Express Contract
2. Implied Contract
3. Quasi Contract
4. E-Contract

### **Express Contract**

A contract is said to be “Express” if the proposal or acceptance of any promise is made in words, be it in the written or oral form. The provision is subject to the condition that the offer so made gains the acceptance of the acceptor.

### **Implied Contract**

An implied contract is in stark contrast to an express contract, i.e. it isn't expressed in written or oral form.

### **Quasi Contract**

Quasi Contracts, unlike others, hold no contractual relations between the partners but are created by virtue of law. The court may form a Quasi-Contract under any of the following circumstances:

- Upon the supply of essentials
- Where the expenses of one person are met by another.
- Where one party gains by the activity of another.
- In the case of the finder of lost tools.
- Upon mistaken payments/supply of goods

## **E-Contract**

Electronic, Cyber or Electronic Data Interchange contracts are formed by electronic means. The means and devices that aid in such formation include email, telephone, digital signatures, and the likes of it. The contractual terms here are listed by electronic means or implied by the actions of the users.

## **On the Basis of Consideration**

1. Bilateral Contract
2. Unilateral Contract

### **Bilateral Contract**

A contract is called bilateral, or in other words reciprocal, when it comes with mutual considerations. It is formed when two parties agree to the contractual terms of each other.

### **Unilateral Contract**

A contract is classed as unilateral where only one party makes a promise, which could be availed by anyone who is ready to be committed to the same. Such a contract can only be fulfilled if someone else fulfils the promise.

## **On the Basis of Execution**

1. Executed Contract
2. Executory Contract

### **Executed Contract**

A contract is termed as executed if the performance stipulated under it has been completed by one, both or all parties. Most of these contracts are performed instantaneously, such as buying of goods and/or services.

### **Executory Contract**

An executory contract involves the performance of consideration at a future point of time; which means the promises of consideration cannot be completed instantaneously as in an executed contract.

## On the Basis of Validity

1. Valid Contract
2. Void Contract
3. Voidable Contract
4. Illegal Contract
5. Unenforceable Contract

### Valid Contract

Valid contracts must satisfy all the **contract requirements**, making it legally binding and enforceable. These requirements include:

- The making of **offer** and its acceptance, making it eligible for registration.
- The existence of a legal relationship.
- The existence of a lawful consideration and object.
- The parties concerned are competent to form a contract.
- **Free consent** of the parties.
- Certainty in the terms of the contract.
- The capability of performance (of the contract).
- The contract hasn't been expressly declared void under the contract laws.

### Void Contract

Any contract which is not in line with the contract requirements as highlighted above is classified as void.

### Voidable Contract

A contract is considered as voidable on the existence of an agreement which is enforceable by law at the option of one or more of the parties concerned, but not at the option of the others. In simple terms, at least one of the parties to the contract must be bound to the terms specified in it. The other party, who could be a minor or is temporarily incapable of a contract owing to other reasons, isn't bound by it and may repudiate or accept the terms of the contract. If the latter chooses to repudiate, the contract becomes void.

### Illegal Contract

A contract is termed illegal by the court if:

- It allows one or all the parties to break the law or not adhere to society's norms.
- It is opposed to public policy.

All illegal contracts can be void/voidable/valid, but it cannot be the other way around. For example, party X may have a contract to sell narcotics to party Y, and the contract may be on par with the essentials. Such a contract is valid on the basis of these essentials but is otherwise illegal and non-enforceable by law. Parties in default of these contracts are legally punishable.

## **Unenforceable Contract**

A contract is unenforceable if it fails to complete the required legal obligations. Such a contract can be enforced upon completing these formalities, the likes of which mostly occur in the form of technical defects.

## **Conclusion**

Now we can define a contract and more importantly, understand what “Not” a contract is. A contract is an accepted proposal (agreement) that is fully understood by the law and is legally defined or enforceable by the law.

So a contract is a legal document that bestows upon the party’s special rights (defined by the contract itself) and also obligations that are introduced, defined, and agreed upon by all the parties of the contract.