

The Indian Contract Act 1872

Unit 1

• Form : April 28, 1872

• Function : 1 Sept, 1872

Nature of Contract

(Apply) Aim: To Bring unified legal framework to govern

• Act Contracts

↓
 Chapters
 ↓
 Section
 ↓
 Subsection
 ↓
 Clause
 ↓
 Sub clause

Section
 ↙ ↘
 Subsection Clause
 ↓ ↓
 (Related) (unrelated)
 to section to section
 eg:- Section 2
 (1) Building
 (2) Capital
 (3) property

• 4(1)(a)(iii)

Section 4, Subsection 1, Clause a + Sub Clause iii

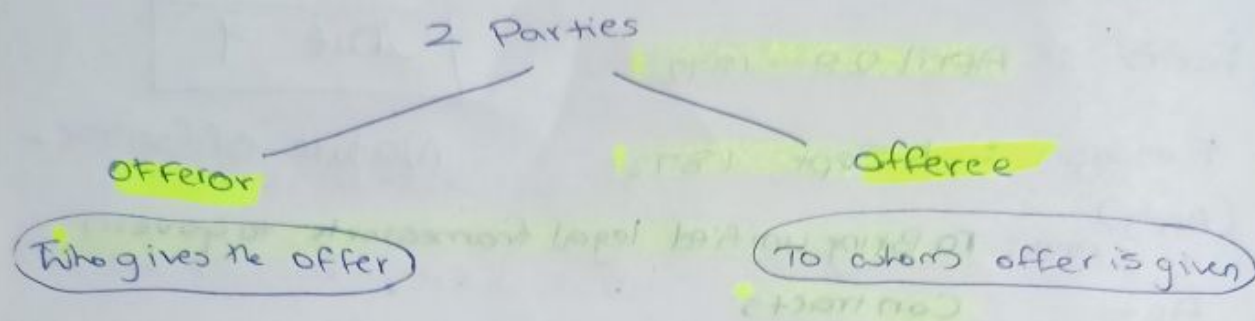
• Agreement = Offer + Acceptance + Consideration

• Contract = Agreement + Enforceability by law (Section 2(h))

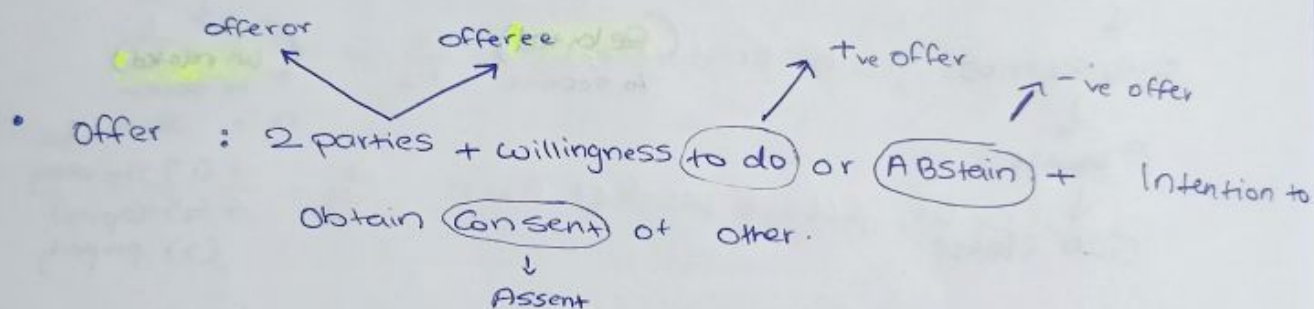
Meaning

- Signifies — to speak
- Abstain — to stop
- Assent — approval
- Abstinence — the practice of stopping from indulging in something.

offer



- offer = Signifies ✓ Assent ✓ Abstain ✓



Types of offer.

General offer	Specific offer	Cross offer	Counter offer	Standing / open / Continuing offer
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① General offer

Offer made to public at large.

- Anybody fulfilling the condition can accept the offer.

Plaintiff : Case on offer

Defendant : Who defends

eg: wallet lost → paper news → Finding person — Reward 1000

Anybody can accept

Case : Carlill vs Carbolic Smoke ball

• ഒരു വാദാഭ്യന്തര : **plaintiff**

• ആറുപോൾ എതിരെ ആണ് വാദാഭ്യന്തര : **Defender**

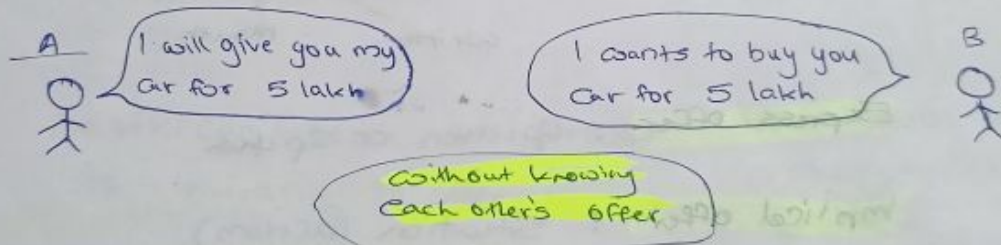
② Specific offer

Offer made to **Specific person**. Only that person can accept the offer.

Leading Case : **Boulton vs Jones**
(law)

③ Cross offer

When 2 parties exchange **identical offers**, but in **ignorance of each others offer**. Such offers are called Cross offer.



④ Counter offer

Also known as Conditional acceptance.

When the person to whom the offer is made, makes the **qualified (conditional) acceptance** of the offer, he is said to have made a Counter offer.

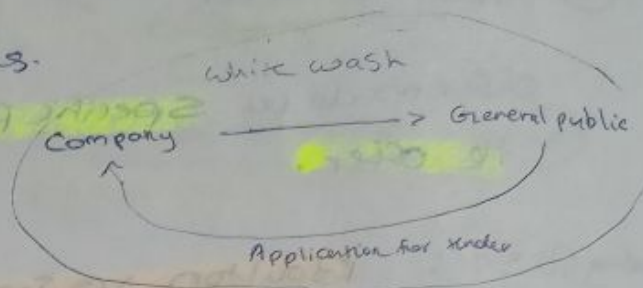
The **Counter offer** so made ^{leads to} **rejection of the original offer**.

eg: Shop → Dress → Salesman say 5000 → same dress → we say 4000 (bargaining)

⑤ Standing offer | Open | Continuing.

An offer that is allowed to remain open for acceptance over a period of time.

eg:- Tender of supply of goods.



Rules of valid offer

offer must give rise to

① Legal Relation

Terms of an offer must be

② Definite & Certain : It should not be doubtful or not clear

offer may be

③ Expressed or implied : In word or in action

Written Mouth

Express offer : written or spoken

Implied offer : Situation (actions)

eg:- a person walking towards a door to enter into a room

offer may be

④ General or Specific

offer must

⑤ be Distinguished from an invitation to offer;

Case : Pharmaceutical Society of Great Britain vs Boots Cash Chemists Ltd.

Basis

offer

Invitation to offer

Meaning

An offer is the final expression of willingness by the offeror to be bound by the offer if the other party chooses to accept it.

Where a party without expressing his final willingness proposes certain terms on which he is willing to negotiate, he does not make an offer, but only invites the other party to make an offer on those terms.

Intention of the party

If a person who makes the statement, has the intention to be bound by it as soon as the other accepts, he is making an offer.

If a person has the intention of negotiating on terms, it is called invitation to offer.

Sequence

An offer can't be an act precedent to invitation to offer.

An invitation to offer is always an act precedent to offer.

Offer is different from:

- Statement of intention → willingness
- Answer to a question
- Statement of price

(Further - son - property)

— xxx
— x xx
— xx

This is invitation to offer

⑥ must be Communicated.

An offer must be Communicated to the person to whom it is made. A person can accept the offer only when he knows about it.

Case law : Lalman Shukla Vs Gauri Dutt

Gauri Dutt → Servant Lalman → find nephew → news announcement for reward → Lalman doesn't know → find nephew → Lalman claimed → he didn't get → Because is he didn't know the offer

non fulfillment

⑦ offer should not contain a term non Complains of which would amount to acceptance.

(within 1 week - acceptance letter - not send - then consider it as acceptance)

Not a valid offer

It is not a valid offer as non-communication of acceptance by a particular time cannot be taken as acceptance.

⑧ offer must be made made with a view to obtain the assent. approval

⑨ Communication of Special terms.

If the Conditions are printed on the back of a ticket but no words drew the attention of the purchaser of the ticket, he is not bound by the Condition printed.

⑩ Offer may be Conditional

eg:- Offer may ask for payment through Cheque. Now offeree has to accept the Condition mentioned otherwise, Contract will become invalid.

Condition must be brought to the attention of the offeree. eg:- Terms & Conditions on a ticket or a receipt. But terms & conditions must be brought to the attention of the offeree. (see back of a ticket for terms & conditions)

Relation between offer & acceptance

"Acceptance to an offer is what a lighted matchstick is to a train of gun powder."

here, Gunpowder = Offer

Lighted matchstick = Acceptance

offer sec 2(a)
Acceptance sec 2(b)

By Anson, relating: Devocation of proposal & Acceptance

↓
Cancellation

Once an offer has been ~~approved~~ accepted, the parties cannot simply withdraw from the contract without legal consequences.

Legal Rules Regarding a Valid Acceptance

(Essentials of Valid Acceptance)

- Must be absolute & unqualified.
- Must be to an offer / must be given by the person to whom it is made
- Must be Communicated
- Must be made in the mode prescribed.
- Mere silence is not acceptance
- Must be given within the time specified / before lapse
- Acceptance by conduct / implied acceptance.

① Must be absolute & unqualified ——— un Conditional

Complete

without any Condition

one should offer accept what is offered to him. Qualified acceptance would amount to rejection of the offer (Counter offer)

② Acceptance must be to an offer :

An acceptance should be a response to an offer.

One can not accept what is not offered to him

Case: Lalman Shukla Vs Gauri Dutt.

③ Acceptance must be in a ^{mentioned} prescribed mode — manner

④ Mere Silence is not acceptance

Case Law : Felthouse Vs Bindley

The acceptance of an offer cannot be implied from the silence of the offeree or his failure to answer, unless the offeree has indicated that his silence is the evidence of acceptance.

⑤ Acceptance must be given within a reasonable time & before the offer lapses (end)

Acceptance must be given within the specific time limit. If no time is stipulated (mentioned), acceptance must be given within a reasonable time or before offer lapses because an offer cannot be kept open indefinitely.

Reasonable time depends on Fact & Circumstances of the case.

eg: - max 2 or max 3 days

⑥ Acceptance must be communicated.

As per the definition of acceptance, "The person to whom the offer is made signifies his acceptance". Thus the acceptance must be communicated.

Signifies : To speak, to tell, to communicate.

Case Law : Brogden vs Metropolitan Railway Company.

⑦ Acceptance by Conduct ^{By actions} ^{without using words}

According to the provision of Ind Contract Act 1872, the performance of the condition of the offer is an acceptance.

When a person performs the act intended by the proposer, the performance of the act constitutes an acceptance.

- eg:-
- A coolie in uniform picks up the luggage of A to be carried out of the railway station without being asked by A, & A allows him to do so.
 - When a trade man receives order from customer. The trade man executes the order by sending goods.

The customer order for goods is the offer which has been accepted by the trade man by sending goods. It is a case of acceptance by conduct.

Communication & Revocation of Offer & Acceptance

Communi & Revocation
↓
Cancellation

• Communication to Offer

→ The Communication of an offer is **Complete** when it comes to the **knowledge of the person** to whom it is made (offeree)

→ A proposal is made by **post** now, the Communication will be **Completed** when the letter containing the proposal **reaches the person** to whom it is made (offeree)

posting : 1/5/2024

Delivery : 6/5/2024

So, 6/5/2024 ની રોજની Communication Complt થયેલ છે.

→ As per ICAI : **Read** એટલે જ તમારું Complete થયેલું deliver એટલે જ તમારું પૂરું.

• Communication of Acceptance

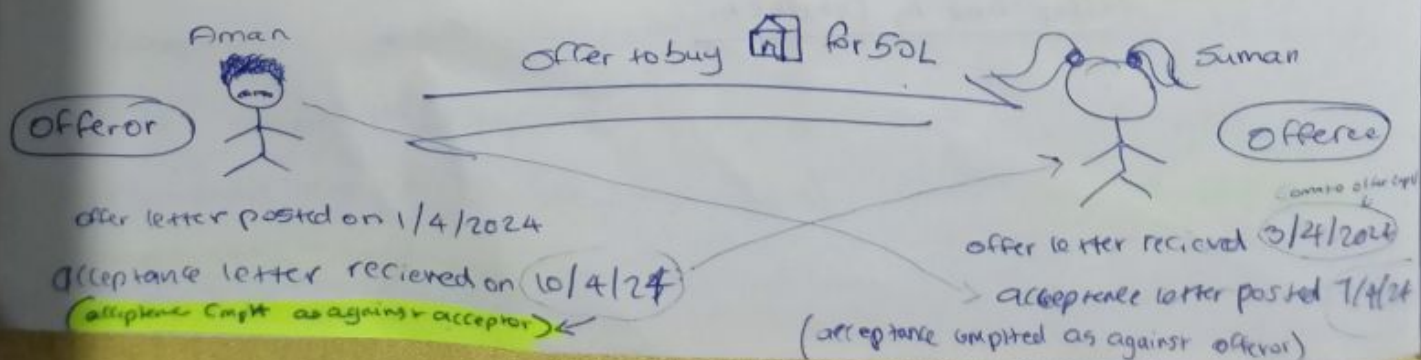
Two dates

Against the **proposer** (offeror)

Against the **acceptor** (offeree)

When a Proposal is accepted by a **letter sent** by post, the Communication of acceptance will be **Completed**.

When the **letter reaches** the **proposer** the Communication of Acceptance will be **Completed**.



Revocation of offer & Acceptance

proposer - offeror
acceptor - offeree

Revocation : Cancel or withdraw

→ Communication of Revocation

As against the person to whom it is made, when it comes to his knowledge (like communication of offer)

Karan → Mohan

offer: 10/6/23

14/6/23

revoked: 12/6/23

12 to 14

15/6/23

• Communication of ^{offer} Revocation Completed on 14/6/23

• Revocation Completed for Karan: 12/6/23

• Revocation Completed for Mohan: 15/6/23

→ Time limit for

Revocation

offer

• A proposal may be revoked

any time before the communication of its acceptance is complete

as against the proposer.

(before acceptance letter post) (offeror)

• An acceptance may be revoked at any time before the communication of acceptance is complete as against the acceptor (offeree)

(before acceptance letter is received)

offeror

Karan

offeree

Mohan

10/6/24

offer

14/6/24

20/6/23

Accept. letter

16/6/24

Received

posted

Rev. of acceptance can be done before 20/6/24

Revocation of offer can be done before 16/6/24

~~Revocation of offer can be done before 16/6/24~~

~~Revocation of acceptance can be done before 20/6/24~~

offeror

offeree

A

B

1/1/24

offer

3/1/24

8/1/24

acceptance

5/1/24

Revocation of offer: before 5/1/24

Revocation of acceptance: before 8/1/24

Lapse of offer

(End)

① By Notice of Revocation

The offeror may revoke the offer before acceptance

He may send the notice of revocation to the other party

② By Lapse of the time specified for the acceptance

An offer gets lapsed if it is not accepted within a

specified time; , if no specified time — Reasonable time

(according to the fact & situation of the case)

③ By the failure of the acceptor to fulfil the condition precedent to the acceptance.

Assuming that, offeror while making an offer puts the condition that, for the offer to be accepted, an amount of advance should be sent. The sending of the advance is a condition precedent. If the condition has not been complied with, then the offer is deemed to have lapsed.

④ By the death or insanity of the proposer — offeror

Death or insanity of the proposer comes to the notice of the acceptor before he accepts the offer. It results in the revocation of the offer.

(cancel, end)

⑤ By the Communication of the Counter Offer

Communication of Counter offer results in the rejection of the original offer.

Counter offer = acceptance + Condition.

⑥ When the offer is not accepted in the prescribed mode.

Then the offer is revoked
if ~~prescribed~~ mode is not prescribed then reasonable mode

⑦ When the Law is changed (Subsequent illegality)

An offer comes to an end if the law is changed & Contract based Contemplated by offer becomes illegal or incapable of performance

• Rules of valid offer

"SCAN LGDE CD"

- Special term
- Communicated
- Assent
- Non Complaints
- Legal Relation
- General or public
- Distinguished from invitation to offer
- Expressed or Implied
 - Conditional
 - Definite & Certain

(10)

Rules of a Valid Acceptance

"MOS C CAT"

- Mode
- Offer
- Silence
- Communicated
- Conduct
- Absolute & unqualified (Compleat & without condition)
- Time

Revocation of offer & Acceptance

offeror A		offeree B
1/1/24	offer →	3/1/24
7/1/24	← acceptance	5/1/24

offer Communication of offer Completed on: 3/1/24

Communication of acceptance Completed on: A - 5/1/24
B - 7/1/24

Revocation of offer: before 5/1/24

Revocation of acceptance: before 7/1/24

Lapse of offer

"MLT FCND"

- Mode
- Law
- Time
- Fulfilment of precedent condition
- Notice of Revocation
- Death