

who made
(British Council)

1872
year in which
it is passed

Contract

Offer/proposal + Acceptance

↓
promise + consideration

↓
Agreement + backed by law (enforced by law)
(Sec-10)

↓
CONTRACT

★ All contracts are agreements but,
all agreements are not
Contract.

Definitions

- ① Contract - Sec 2(h) - An agreement which is enforced by law.
- ② Agreement - Sec 2(e) - Every promise or set of promise forming part of consideration for each other.
- ③ Promise - Sec 2(b)
 - When a proposal is made to a person
 - such person signifies his assent
 - then it is said, that proposal is accepted.
 - So, a proposal accepted is known as promise.

* Difference b/w Contract & Agreement

	Agreement	Contract
Sec	2(e)	2(A)
Meaning	—	—
Scope	Broader	Narrower
Legal obligation	No	Yes
Nature	All agreements are not contracts.	All contracts are agreements

Essentials of a Valid Contract

- ① Offer + Acceptance
- ② Competent
 - major
 - sound mind
 - not disqualified by law.
- ③ Legal relationship
- ④ Consideration
- ⑤ Possible to perform
- ⑥ Free consent
- ⑦ Legal formalities.
- ⑧ Legal Objects.
- ⑨ Terms must be certain
- ⑩ Two parties
- ⑪ Not declared void by law.

(1) Offer & Acceptance

- there must be an offer by the offeror &
- such offer shall be accepted by offeree.

(2) Competencies of parties

- Both the parties shall be competent
- Competent means:-
 - major
 - sound mind
 - not dis. by law.

(3) Legal Relationship/ Legal obligation

- there must be an intention to create legal relationship.
- social or domestic agreement will not be enforceable.

(4) Consideration:-

- 'quid pro quo' = something in return
- there must be consideration during contract.

(5) Possible to perform

- the terms in contract, shall be possible to perform.

(6) Free Consent

- There must be consent i.e. meeting of minds [consensus- ad- idem] b/w parties.
- There shall be free consent i.e. not caused by coercion/ undue influence/ fraud/ misrepresentation.

(7) Legal formality

- There shall be valid documentation for the contract.

⑧ Legal objects

→ the contract must be of legal object.

⑨ Terms must be certain

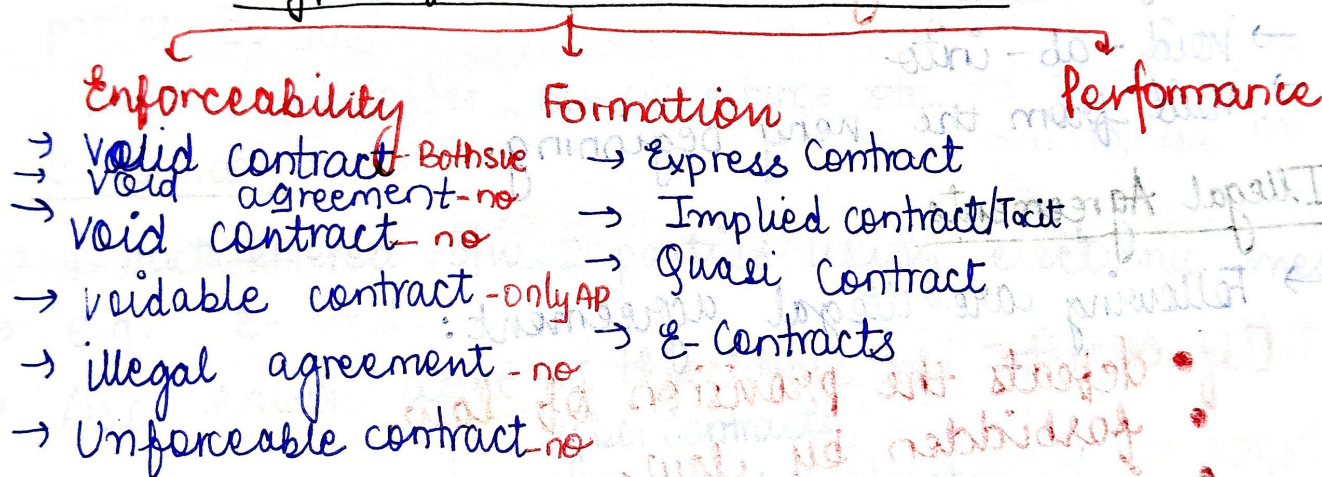
→ All the terms b/w parties shall be certain & not ambiguous.

⑩ Two parties

⑪ Not declared as void

→ such agreement shall not be declared as void or illegal by any law.

Types of Contract on the basis



Type of Contract :

① On the Basis of Enforceability

1) Valid Contract :

→ 2(h)

→ an agreement which is enforceable by law.

2) Void Contract :

→ 2(j)

→ A contract which ceases to be enforceable

3) Voidable contract

→ 2(i)

→ An agreement which is enforceable only at the option of Agreed party.

→ When contract is voidable:

coercion/
undue
influence/
fraud/
misrepresentation

another person
prevents from
performing the
promise.

not performed
within time.

4) Void Agreement 2(g)

→ void - ab - inito

→ Void from the very beginning.

5) Illegal Agreements

→ Following are illegal agreement:

- defeats the provision of law.
- forbidden by law.
- immoral or opposed to public policy
- implies injury to 3rd person or their property.

★ All illegal agreements are void agreements but all void agg. are not illegal agreements.

6) Unenforceable Contract

→ Contract is good in substance.
→ But has technical defects

II) On the basis of formation

1) Express Contract

→ Here the contract terms are expressed by words or in writing.

2) Implied Contract

→ This contract comes into existence by implication.

→ i.e. by action or conduct of parties.

→ Also known as Tacit contract.

3) Quasi Contract

→ not an actual contract, but resembles contract.

→ Here the obligation is imposed & right is conferred on parties by law.

→ There is no offer, no acceptance, etc.

4) E-contract

→ Contracts entered b/w 2 parties using electronic means.

→ e.g. E-mail.

→ Also known as EDI [Electronic Data Interchange]

→ Cyber Contracts

→ Mouse click Contracts

III) On the basis of Performance

Executed Contract

obligation fulfilled by both the parties

Executory Contract

Unilateral Contract

(OF) by one party

Bilateral Contract

(OF) by none of the parties

Offer

(I) Definition

↳ Sec 2(a)

↳ when one person → signifies to another → { his willingness to do ^{or} abstain from doing } with a view to obtain his assent

(II) Essentials of a Valid Offer

- 1) 2 parties → offeror - who makes the offer.
→ offeree - To whom the offer is made
once offer is accepted

These parties are promisor & promisee / Acceptor.

- 2) There must be an express thing "to do" or "not to do" something.

- 3) It must be done with a view to obtain assent.

- 4) Offer can be "positive" or "negative".

III Types of offer / classification of offer

① Specific offer :

→ offer made to a specific person or specific group of person only.

→ can be accepted by such specific group or person only.

② General offer :

→ offer given to the world at large.

→ Can be accepted by anyone who fulfills the condition

→ Carill v/s Carbolic Smoke Ball Co.

③ Cross offer

- When 2 parties exchange identical offers.
- Here both the parties are in ignorance of each other's offer.
- not binding; no deemed acceptance.

④ Counter offer

- offer pe offer.
- when offeree gives conditional acceptance regarding change in terms of original offer.
- Counter offer → original offer lapses.
due to

⑤ Standing / Continuing / open offer

- offer open for a period of time.
- Here there are series of offer.

IV Essentials of a Valid Offer :-

- ① Must give rise to a legal relationship.
- ② Must be certain, definite & not vague.
- ③ Must be communicated to offeree.
(Halmoni Shukla v/s Gauri Dutt).
 - ↳ in ignorance of offer → any person completes the condition of general offer → then such person can't claim anything afterwards. As there is no valid acceptance as the person was unaware about offer.
- ④ Made with a view to obtain assent.
- ⑤ It may be conditional
- ⑥ Must be accepted with time.

If no response within time → Deemed rejection of offer.

- ⑦ offer maybe specific or general.
- ⑧ offer maybe expressed or implied.
- ⑨ An invitation to offer is not an offer.
- ⑩ Following are not an offer:
 - a mere statement or announcement.
 - Statement of price.
 - Invitation to offer.

Diff. b/w offer & invitation of offer

Points	Offer	Invitation to offer.
Meaning	<u>2(a)</u> -	where a party w/o expressing his final willingness proposes certain terms on which he is ready to negotiate.
Intention	Binding	It only invites a person to make an offer.
Sequence	offer can't precede ITO.	Negotiating ITO always precedes an offer.

Acceptance

- ↳ not defined under ICA
- ↳ But, it is said that Acceptance → 2(b) → Promise/ Acceptance.
[refer pg 1]

I) Essentials of a Valid Acceptance

- 1) Acceptance shall be given by the person to whom the offer is made.
↳ Boulton v/s Jones.
- 2) Acceptance must be absolute & unqualified (unconditional)
↳ if given qualified acceptance = Counter offer.
- 3) Acceptance must be communicated.
↳ in prescribed mode.
↳ if no mode is prescribed → reasonable mode.
- 4) Acceptance must be given within specific time, if no time stipulated → reasonable time.
- 5) Mere silence is not acceptance.
- 6) Acceptance maybe expressed or implied.

* Completion & Revocation of offer & acceptance

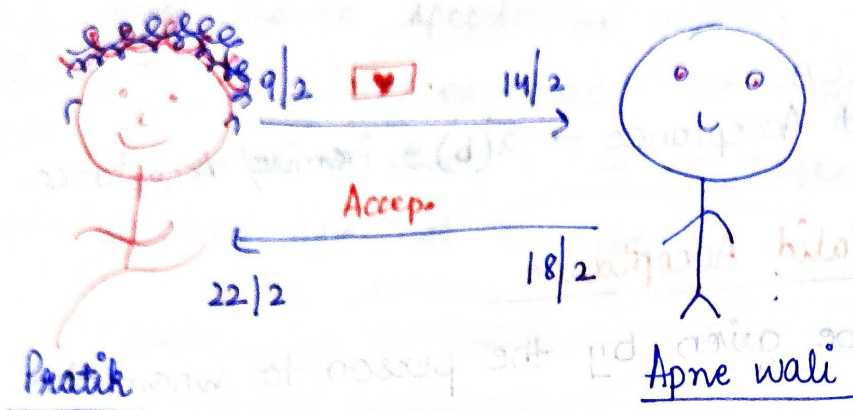
• Completion :

- ① offer → when it comes to the knowledge of offeree.
- ② Acceptance
↳ offeree → Acceptor → when it comes to the knowledge of offeror
↳ offeror → when it put into transmission.

• Revocation :

- ① offer - Anytime before acceptance.
- ② Acceptance - Anytime before it comes to the knowledge of offeror.

Revocation of offer



- 1) When will Pratik's proposal get complete. **14/2**
- 2) Until when Pratik can revoke. **Before 18th**
- 3) When will acceptance get complete for Pratik **18th**
- 4) When will acceptance get complete for Apne wali. **22nd**
- 5) When can she revoke her acceptance. **Before 22nd**

* Modes of revocation of offer:

- 1) Death
 - 2) Voluntarily revoked before acceptance
 - 3) Counter offer
 - 4) Time
- **By Notice of revocation** → Voluntary revocation of offer before acceptance.
 - **By lapse of time** - if acceptance not given within specified time - offer lapses.
 - no time stipulated - reasonable time
 - **Non-fulfillment of condition precedent** - When the acceptor fails to fulfill a condition given by the offeror, the proposal gets revoked.

- v) Death/insanity
- vi) Non-accepted by prescribed mode
- vii) Subsequent illegality.

* Special Conditions in a contract:

- ↳ even if printed in small letters.
(on any ticket or slips), conditions are deemed communicated, even if not read by them.
- ↳ However; unreasonable terms may not be enforceable.
- ↳ terms not communicated before the contract are not binding.